

RSA No.3867 of 2018 (O&M)
Reserved on: 17.09.2025
Pronounced on : 21.11.2025

V/s

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Service of respondents No.2 to 5 has been dispensed with vide order dated 23.05.2024.

VIKRAM AGGARWAL, J.

3. The plaintiff (Ranjit Singh) instituted a suit under Section 77 of the Registration Act, 1908 (for short the “Registration Act”) seeking a direction to the defendant (Joginder Singh) to appear before the Joint Sub-Registrar, Kalanaur or before any other Sub-Registrar for presentation and registration of the sale deed dated 28.07.2011, executed by the defendant in

favour of the plaintiff with regard to land measuring 3 kanals 9 marlas (fully described in the plaint) situated at Village Attari, Tehsil and District Gurdaspur (hereinafter referred to as the “suit land”).

3.1 It was averred that the defendant, being owner of the suit land, executed a sale deed dated 28.07.2011 in favour of the plaintiff for a total sale consideration of Rs.3.7 lakhs. A sum of Rs.2.5 lakhs was paid as advance payment on 03.02.2009 when the agreement to sell had been executed with regard to the suit land as also with regard to some other land. A further sum of Rs.1.2 lakhs was paid before execution of the sale deed in presence of the witnesses on 28.07.2011. The sale deed was presented before the Joint Sub-Registrar, Kalanaur on the said date i.e. 28.07.2011 but the defendant slipped away from the office with a mala fide intention and did not turn up for performing other formalities as regards the registration of the sale deed.

3.2 Under the circumstances, the plaintiff moved an application to the Joint Sub-Registrar, Kalanaur, who issued notice to the defendant for 04.10.2011. However, the defendant failed to appear. Under the circumstances, order dated 04.11.2011 was passed by the Joint Sub-Registrar, Kalanaur directing the plaintiff to avail his remedy in the civil Court. Thereafter, the suit was instituted.

4. The suit was opposed by the defendant. In the written statement, preliminary objections as regards maintainability and the suit not being properly valued for the purpose of Court fee and jurisdiction were raised. On merits, execution of the sale deed dated 28.07.2011 and receipts of Rs.2.5 lakhs dated 03.02.2009 and Rs.1.2 lakhs dated 28.07.2011 were denied. It was averred that the wife of the plaintiff was the Sarpanch of the

used to obtain signatures and thumb impressions of the defendant on blank papers. It was averred that in connivance with the deed writer, the plaintiff may have prepared a false and forged agreement with a view to grab the suit land.

4.1 It was further averred that the defendant had a quarrel with his brother Amrik Singh and on the pretext of moving an application to the police, the plaintiff had brought the defendant to the office of the Sub-Registrar, Kalanaur and may have got the alleged sale deed prepared in connivance with the deed writer and witnesses. In fact, the defendant had told the plaintiff that he wanted to give his land to his daughter, who was a divorcee and was residing with him. All other averments were denied.

4.2 No replication to the written statement was filed by the plaintiff.

5. From the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether suit of the plaintiff is entitled to the relief of declaration under Section 77 of the Registration Act?OPP***
- 2. Whether suit is not maintainable in the present form?OPD***
- 3. Whether the suit is proper valued or not?OPD***
- 4. Relief.”***

6. Parties led their respective evidence. The trial Court decreed the suit filed by the plaintiff and the appeal against the judgment and decree of the trial Court was also dismissed by the first Appellate Court, leading to the filing of the present second appeal by the defendant.

7. Learned counsel for the parties were heard.

8. It was strenuously urged by learned counsel representing the appellant that the suit itself was not maintainable. Reference was made to Sections 71 to 77 of the Registration Act and it was submitted that the only

support of his contentions, he placed reliance upon a judgment of a coordinate Bench of this Court in the case of ***Mohinder Kaur vs. Gurcharan Singh and others, 2004(2) RCR (Civil) 195*** and a judgment of the Madras High Court in the case of ***Appourva J. Patel vs. The Inspector General of Registration, 2012 (37) RCR (Civil) 420***.

9. *Per contra*, learned counsel representing the respondents submitted that there is no illegality in the impugned judgment and decree. He submits that once the Joint Sub-Registrar had himself vide order dated 04.11.2011 directed the plaintiff to approach the Civil Court, there was no other remedy with the plaintiff. In support of his contention, he placed reliance upon a judgment of a Division Bench of this Court in the case of ***Avnash Rani and another vs. The Additional Deputy Commissioner-cum-Registrar Ferozepur and others, 2009 (5) RCR (Civil) 631***.

10. I have considered the submissions made by learned counsel for the parties.

11. Though the findings as regards the execution of the sale deed dated 28.07.2011 have not been assailed during the course of arguments, this Court proceeds to examine the said findings as well. It was the case of the plaintiff that the defendant had executed a sale deed dated 28.07.2011 in favour of the plaintiff for a total sale consideration of Rs.3.7 lakhs. This sale deed had been executed pursuant to the execution of an agreement to sell and at the time of the execution of the agreement to sell, a sum of Rs.2.5 lakhs had been paid and further a sum of Rs.1.2 lakhs had been paid at the time of execution of execution of the sale deed. The defendant denied the execution of the sale deed (Ex.P2). He took a stand that since the wife of the plaintiff was the village Sarpanch, he used to obtain the signatures and

the same in connivance with the deed writer.

12. The Courts rightly observed that the signatures and thumb impressions were, therefore, admitted. To further prove the execution of the sale deed, Sukhjinder Singh, an attesting witness was examined as PW-2, who duly deposed about having attesting the sale deed. Apart from this, the Scribe namely Jassa Singh Chahal was also examined as PW-3, who also categorically deposed that the sale deed had been scribed by him. Still further, the plaintiff also appeared as PW1 and deposed about the factual situation. Both courts found his testimony to be consistent and trustworthy. Therefore, the Courts rightly held that the onus shifted on the defendant to prove that the sale deed had been executed fraudulently.

13. In fact, the plaintiff also examined Balwinder Singh as PW4, who was a Clerk in the office of CDPO Office, Kalanaur, who proved that the pension application form of the defendant had been filled up and submitted in the office in 2001. The sale deed (Ex.P2) was executed on 28.07.2011. It is incomprehensible as to how thumb impressions/signatures obtained in 2001 could have been misused in 2011. Clearly, the objection was taken for the sake of taking an objection without there being any proof about the same.

14. Coming to the argument raised by learned counsel for the appellant that the suit itself was not maintainable, it has to be borne in mind that the Joint Sub-Registrar himself passed an order dated 04.11.2011 (Ex.P6), calling upon the plaintiff to avail his remedy before the Civil Court. It has further to be borne in mind that the Civil Court has plenary jurisdiction as laid down under Section 9 CPC. It cannot be said that the plaintiff should have filed an appeal before the Registrar or should have

case, the remedy before the Civil Court was not barred. In the case of **Avnash Rani and another** (supra), it was categorically held by a Division Bench of this Court that if a Registrar refuses to register a document, the aggrieved person has the right to invoke the jurisdiction of the Civil Court under Section 77 of the Registration Act or to prefer a suit for specific performance;

“12. Apart from the said fact, respondent No. 2 has invoked the jurisdiction of Civil Court for specific performance of the agreement dated 16.3.2006. The petitioners have filed reply to the said suit. An ad-interim application has been disposed of giving liberty to the petitioner to sell the property after obtaining the permission of the Court. The jurisdiction of the Civil Court is plenary in nature and, therefore all questions in respect of execution of the documents and the receipt of the sale consideration or the execution of the agreement are the issues, which are required to be examined in the Civil Suit. Though the statement was made before this Court that the application has been filed for withdrawal of the suit for specific performance but factually the said application has been filed only after the orders were passed by this Court on 17.9.2008. Once, the matter is pending before the Civil Court at the instance of respondent No. 2 alone, wherein all the questions are required to be examined, the invocation of the jurisdiction of the Registrar under Section 73 of the Act is nothing but an abuse of process of law. As a matter of fact, if the Registrar refuses to register a document, aggrieved party has a right to invoke the jurisdiction of the Civil Court, as under Section 77 of the Act. It necessarily implies that the order of Registrar is summary in nature and limited in operation. But once, the parties were before the Civil Court, the invocation of the jurisdiction of the Registrar lacks bone-fide. The manner in which the Registrar has ordered registration even though the factum of pendency of the Civil Suit raising disputed questions of fact was raised, speaks volumes of the conduct of officer in ordering registration of the document. To say least, we are of the opinion that the order registering of the document lacks bona fide.”

11. In view of this categorical view and keeping in view the fact that the Joint Sub-Registrar himself had called upon the plaintiff to invoke the jurisdiction of the Civil Court, the judgments relied upon by learned counsel

for the appellant would not come to the aid of the appellant.

12. That being so, the appeal is found to be bereft of merit and is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on : 21.11.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No