

**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****107****RSA-2909-2024(O&M)****Date of decision: 12.03.2025****Mohinder Kaur****...Appellant(s)****Vs.****Jagjit Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. R.D.Bawa, Advocate with
Mr. Samuel Gill, Advocate for the appellant.

NIDHI GUPTA, J.**CM-2529-C-2025**

This is an application under Section 151 CPC on behalf of the appellant for preponing the date of hearing from 19.08.2025 to some early date of hearing.

Heard.

In view of averments mentioned in the application, which is duly supported by an affidavit of the appellant, the same is allowed and the main appeal is taken up on Board today itself.

CM-2530-C-2025

This is an application under Section 151 CPC for placing on record the translated copy of the Conveyance Deed dated 14.10.2005 (Ex.PW-2/A) as Annexure A-1.

Heard.



Application is allowed and the translated copy of Conveyance Deed dated 14.10.2005 (Ex.PW-2/A) is taken on record as Annexure A-1, subject to all just exceptions. Registry is directed to tag the same at appropriate place.

RSA-2909-2024 (O&M)

The plaintiff is in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit filed by the plaintiff seeking declaration that sale deed dated 07.11.2005 executed by defendant no.1 in favour of defendant No. 3 in collusion with defendant no.2 is illegal, null and void and will not effect the legal rights of the plaintiff over the suit property measuring 30 Kanals as the same has been allotted to the plaintiff being War Widow of Amar Singh through Conveyance Deed dated 14.10.2005; along with relief of Permanent Injunction restraining the defendants from alienating the suit property, has been dismissed by both the Courts below.

2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant is the 'plaintiff'; and the respondents are the 'defendants'.

3. The brief facts of the case as stated in the plaint that the plaintiff is a war widow. Her husband Amar Singh had sacrificed his life during Indo China War in 1962 being a fighter in Indian Army. After his death, she applied for allotment of land as war widow. Being war widow, the plaintiff was allotted 80 K land in District Patiala on 20.2.1972, which was quite far away from her native village. Accordingly, plaintiff filed



revision petition which was decided in her favour on 10.9.1987, whereafter she was allotted alternative land, measuring 30K near to her village through Conveyance Deed dated 14.10.2005. It is the pleaded case of the plaintiff that defendants No.1 and 2 by misleading the plaintiff got prepared Power of Attorney dated 24.10.2005 pursuant to which Sale Deed dated 07.11.2005 was executed in favour of defendant No.3 by defendants No.1 and 2. The defendant no.1 and 2 during the process of allotment also misled the plaintiff that they are having the genuine buyer of the land even before allotment of land to the plaintiff. The plaintiff being illiterate lady came in instigation of defendant no.1 and 2 and gave her consent to sell allotted land to whom ever the defendant no.1 and 2 says. But, she was ignorant of this fact that allotted land can not be sold of easily to anybody for some years. Defendant no.1 and 2 fraudulently got agreed the plaintiff to enter into an agreement to sell with one Gurpreet Singh. After that all the formalities were completed by defendant no.1 and 2. Both the plaintiff and Gurpreet Singh were not allowed to meet each other except on 29.08.2005 before during and after preparation of entering into an agreement to sell with each other. Initially, the defendant no.1 took part payment of Rs.1,40,000/- from Gurpreet Singh in lieu of agreement to sell with the plaintiff for which defendant no.1 also issued one receipt to Gurpreet Singh by himself as payment was received by him. The agreement to sell was prepared by both the defendants no.1 and 2 on 10.08.2005, and took an earnest money of Rs.11,40,000/- through two bank draft i.e. 10 lacs through drafts no.559565 dated 10.08.2005 and Rs.1,40,000/- through draft



no. 559565 dated 10.08.2005 and date for registration of sale deed was fixed for 29.08.2005 a receipt of Rs.10,10,000/- was prepared by defendant no.1 and 2 in lieu of above-cited agreement to sell. Plaintiff submitted that she only received a payment of Rs.10,10,000/- which was given to her by Gurpreet Singh on 29.08.2005. The earlier payment which was received by defendant no. 1 and 2 were never disclosed by them to the plaintiff. The defendant no.1 and 2 by misusing the power of attorney dated 24.10.2005 sold the suit property to defendant no.3 Vijay Pal Singh. The plaintiff submitted that suit property can not be sold of before passing of ten years after the allotment as condition mentioned in the connivance deed dated 14.10.2005 and even in Fard Jamabandi 2003-05 of the report of Patwari. That later when, the fact of fraud committed by all the defendants came to knowledge of plaintiff she gave a complaint to police where upon an FIR no.98 dated 13.03.2007 was got registered against all the defaulters in Police Station Kharar and that defendants have also duped the said Gurpreet Singh of his amount by not registering the sale deed in his favour even after entering the agreement to sell dated 10.08.2005 with the plaintiff. Now, the defendants are threatening the plaintiff that they will sell of the land fully described in the head-note of the plaint to some one, but the plaintiff several times requested the defendants not to do so, but of no heed. Hence, this suit.

4. Upon notice, defendant No.1 appeared and filed written statement resisting the suit by submitting that the plaintiff is a shrewd and clever person having dishonest intention. It was denied that defendant No.1



had ever approached the plaintiff for helping her to get the land allotted. It was contended that once the land already stood allotted by being a war widow, there was no question of any representation on her behalf by the defendant No.1. It was also denied that defendant No.1 had obtained any signature on the blank paper by misleading her. It was contended that in actual fact, the plaintiff had entered into Agreement to Sell dated 24.10.2005 in the presence of the witnesses namely Gurmail Singh and Mandeep Singh. At the time of execution and receiving of the amount as per above said Agreement, Harbhajan Singh was represented by his son Jagjit Singh i.e. defendant No.1. Plaintiff also executed General Power of Attorney dated 24.10.2005 in favour of defendant No.1 and also delivered possession of land to him.

5. On the basis of the said Power of Attorney dated 24.10.2005, defendant No.1 Jagjit Singh sold the property to defendant No.3 Vijay Pal Singh through registered Sale Deed dated 07.11.2005. The possession of land was duly handed over by Jagjit Singh to Vijay Pal Singh/defendant No.3, who is in possession of the suit property since then. It was denied that defendants No.1 and 2 had any connection with the General Power of Attorney dated 07.11.1990. It was also denied that defendant No.1. had fraudulently induced the plaintiff to enter into present Agreement to Sell and also denied that any payment was taken in lieu of the alleged Agreement between the plaintiff and Gurpreet Singh. It was also denied that defendants No.1 and 2 had prepared any Agreement dated 10.08.2005.

Defendant no.1 further submitted that as per the conveyance deed dated



14.10.2005 and Jamabandi on record there was no embargo or condition that suit property can not be sold for ten years, applicable either on 24.10.2005 when GPA was executed by plaintiff or on 07.11.2005, when sale deed was executed by defendant no.1 on the GPA of plaintiff in favour of defendant no.3. The said documents are legally valid and binding documents. The fact regarding the FIR against the defendant no.1 and 2 was admitted by the answering defendants. However, in the said criminal case defendants were acquitted. The defendants further submitted that no cause of action arose to the plaintiff to file the present suit. Rest of the averments are denied and prayed that present suit may be dismissed with cost.

6. Defendant no.2 also filed written statement along the same lines stating that he is not beneficiary of the Sale Deed. It was submitted by defendant No.2 that one civil suit titled as "Gurpreet Singh Vs. Mohinder Kaur etc" was filed by said Gurpreet Singh mentioned by plaintiff on 10.08.2005 and same was dismissed by the court vide judgment and decree dated 24.11.2015. In the said Civil Suit plaintiff had filed counter claim for declaration to the effect that the sale deed dated 07.11.2005 executed by defendant no.1 in favour of defendant no.3 in the suit is illegal, null and void. However, the said counter claim had been withdrawn by the plaintiff. The plaintiff unnecessary drag the defendant into uncalled litigation. The plaintiff was also estopped by her own act and conduct to file the present suit against the answering defendant. The plaintiff had already received the full sale consideration from Gurpreet Singh as per receipt dated 29.08.2005



which is being thumb marked by the plaintiff by admitting the fact of the receipt to be true and correct by receiving the balance sale consideration.

7. Defendant No.3 also appeared and filed separate written statement taking objection of limitation in filing the suit. In his written statement, defendant No.3 stated that defendant No.1/Jagjit Singh had sold the property to defendant No.3 on the basis of validly executed GPA dated 24.10.2005 through registered Sale Deed dated 07.11.2005. The sale consideration of Rs.19 lacs was paid by defendant No.3 through Draft No. 012026 dated 07.11.2005. An additional amount of Rs.8,00,000/- was paid separately to the seller as defendant no.3 purchased the land in question for Rs.27,00,000/-; and the possession of the land in question is given by Jagjit Singh to answering defendant. Since, then the defendant no.3 Vijaypal Singh is owner in possession of the suit property. The defendant no.3 erected barbed wire around the suit property with entry gate and cultivated the same and the suit property is in actual physical possession of the defendant no.3. Thereafter, defendant no.3 also raised construction upon the suit land. It was further contended in the written statement that the alleged Agreement dated 10.08.2005 between the plaintiff and Gurpreet Singh was false and fictitious and anti-dated document.

8. Replications were filed in which averments of the written statements were denied and that of the plaintiff's were reiterated.

9. From the pleadings of the parties, following issues were framed vide order dated 03.07.2017:-



“1. Whether the plaintiff is entitled for declaration to the effect that Sale deed 07.11.2005 has not effected on her legal rights as prayed for? OPP

2. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for? OPP

3. Whether the suit is maintainable in the present form? OPP

4. Whether the present suit is hopelessly time barred? OPP

5. Relief.”

10. Upon appraisal of the pleadings and the evidence led by the parties, the Id. trial Court decided issues No. 1 to 4 in favour of the defendants and against the plaintiff, and accordingly, vide judgment and decree dated 02.08.2018, the learned trial Court dismissed the suit of the appellant/plaintiff. The appeal filed by the plaintiff was dismissed by the learned District Judge, SAS Nagar (Mohali), vide judgment and decree dated 16.07.2024. Hence, the present second appeal.

11. The short argument raised on behalf of learned counsel for the appellant/plaintiff is that transaction of sale is void ab initio as the Conveyance Deed (Annexure A1/Ex.PW2/A) contains an explicit condition that the allotted suit land cannot be sold or transferred in any manner for a period of 10 years from the date of allotment. It is submitted that therefore the Sale Deed dated 7.11.2005 executed by defendants No. 1 and 2 in favour of defendant No.3 is void ab initio. However, the learned appellate Court in non-suited the plaintiff, had merely stated in respect of the said Conveyance Deed that *“conveyance deed nowhere stipulates that the bar shall be operative from the date of execution of the conveyance deed.”* It is submitted that the same is factually incorrect of the stipulation in the



Conveyance Deed wherein it is clearly stated that if the purchaser has purchased this land being a disabled soldier or being a war widow of an army martyr in that case she will not be eligible to sell or transfer this land in any other manner for a period of 10 years from the date of allotment. If any person violates this condition the land will be resumed from the purchaser. It is further submitted that the possession of the suit property is still with the plaintiff. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

12. No other argument is raised on behalf of the appellant/plaintiff.

13. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

14. I find no merit whatsoever in the submissions made on behalf of the appellant/plaintiff. A perusal of the record of the case shows that husband of the plaintiff was martyr in the Indo China War in 1962. As per Punjab Government policy, the plaintiff applied for allotment of land being war widow. Plaintiff was allotted 80K of land in village Kang Thalla, Tehsil Samana District Patiala on 20.02.1972. The plaintiff stated that the said land was far away from her native village. The plaintiff had filed revision petition before the Chief Settlement Commissioner Patiala, pursuant to which, the plaintiff was allotted present land measuring 30K vide Conveyance Deed 14.10.2005 having vasika No. 3822 (Ex.PW2/A).



15. It has firstly been contended by Id. counsel for the plaintiff that transaction of sale in itself is void ab initio being in violation of the condition stipulated in Conveyance Deed dated 14.10.2005 (Ex.PW2/A). The said condition reads as follows:-

“If the purchaser has purchased this land being a disabled soldier or being a war widow of an army martyr in that case she will not be eligible to sell or transfer this land in any other manner for a period of 10 years from the date of allotment. If any person violates this condition the land will be resumed from the purchaser.”

16. A perusal of the above said condition shows that in case the allottee/plaintiff herein violates the condition of sale or transfer of the land prior to 10 years from the date of allotment, the land will be resumed from the purchaser. As such, in case of any violation, the land would have reverted back to the State. However, admittedly the State has not been made party to the present suit.

17. In this regard, it is also relevant to note that it is the own case of the plaintiff that the land was originally allotted to her in the year 1972 in Patiala; and upon her revision petition, vide order dated 10.09.1987, the concerned authorities were directed to allot her land in Kharar, pursuant to which 30K of land was allotted to her in Kharar vide Conveyance Deed dated 14.10.2005. Further, as per evidence of Tej Pal Singh Patwari Halqa village Sawara PW-3, who has deposed in his cross-examination that possession of the property was delivered to the plaintiff on 24.07.1992. Even the roznamcha entry No. 611 of village Sawara for 24.07.1992

(Ex.PW3/A), reveals that as per order dated 20.07.1992 of Tehsildar, the



possession of the suit land was given to the plaintiff in the presence of the witnesses. As such, plaintiff was given possession of the suit property as far back as on 24.07.1992; and the period of 10 years would therefore be calculable from 24.07.1992. Thus, at the time of execution of Sale Deed dated 07.11.2005, there was no embargo of sale of the suit land.

18. PW3 Patwari Halqa has further deposed that presently the possession of the suit property is with defendant No.3. It may also be pointed out that initially the plaintiff had appeared in the witness box and her cross-examination was partly recorded. However, thereafter, the plaintiff failed to complete her cross-examination as statement was made through her counsel on 20.09.2017 to the effect that plaintiff was suffering from mental illness. Although no evidence was led by the plaintiff to prove her alleged mental condition, however the incomplete statement of the plaintiff cannot be taken into evidence. Moreover son of the plaintiff PW6 Gurpal Singh has categorically admitted in his cross-examination that they are not in possession of the suit property.

19. It has next been contended on behalf of the plaintiff that signature of the plaintiff was obtained by defendants No. 1 and 2 fraudulently on the Power of Attorney dated 24.10.2005. Despite repeated Court queries, learned counsel for the plaintiff has been unable to show this Court as to how a fraud is made out against defendants No.1 and 2. In fact, it is admitted by learned counsel for the plaintiff that no evidence was led by the plaintiff to prove the alleged fraud against defendants No.1 and 2. In fact, plaintiff's witness PW6 Gurpal Singh has nowhere deposed that



signatures of the plaintiff were obtained on blank papers and same were later on converted into GPA by the defendants. Thus, there is no evidence on record regarding the alleged fraud of defendant No. 1 and 2. In this situation, the Learned trial Court has rightly observed that it is not the case of the plaintiff that she had cancelled the said GPA and despite the said GPA, the defendant No.1 had executed the Sale Deed dated 07.11.2005 in favour of defendant No.3.

20. From the above it is clear that plaintiff was unable to prove that signatures of the plaintiff were obtained by defendants No.1 and 2 fraudulently. It is also not denied by learned counsel for the plaintiff that plaintiff had also received sale consideration of Rs.10,10,000/- for sale of the property from Gurpreet Singh on 29.08.2005. It is also admitted by learned counsel for the plaintiff that defendants No.1 and 2 were acquitted in FIR No. 98 dated 13.03.2007 registered against defendant No.2 under Sections 420, 465, 467, 468, 471, 120-B IPC (Ex.PW4/A).

21. Besides the above facts, needless to say that the present suit was also barred by limitation. Admittedly, the suit property was sold to defendant No.3 vide registered Sale Deed dated 07.11.2005; whereas the present suit has been filed by the plaintiff on 30.08.2012 i.e. after more than 7 years; whereas limitation prescribed to challenge the Sale Deed is within 3 years from the date of knowledge. At this stage, learned counsel for the appellant has stated that he may permitted to implead the State Government as party respondent in the present case. However the same cannot be permitted at this belated stage.



22. Learned counsel for the appellant/plaintiff is unable to dispute or convert the above said facts and findings.

23. Hence, no ground is made out to interfere in the impugned judgments and decrees. The present regular second appeal is hereby **dismissed.**

24. Pending applications, if any, stand disposed of.

12.03.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No