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**139 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-3063-2025

Date of Decision: 08.09.2025

SMT. BALA

....Appellant

Versus

AMARJEET SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. A.K. Ranolia, Advocate
for the appellant.

Parmod Goyal, J. (Oral)

Defendant/appellant is aggrieved by the impugned judgment and decree dated 17.09.2022 and judgment and decree dated 02.08.2025, passed by the learned Civil Judge (Junior Division), Pataudi and learned Additional District Judge, Gurugram respectively, vide which suit preferred by plaintiff/respondent was decreed and in appeal judgment and decree of trial Court was modified to a limited extent, whereby suit for Specific Performance of Agreement to Sell dated 09.04.2015 was confined only to plot measuring 0 Kanal 3 Marla 3 Sarsai as described in the plaint. In other words, relief of specific performance granted by the Court of first instance was upheld by First Appellate Court with slight modification restricting the same to the land covered by agreement to sell dated 09.04.2015, excluding shop over it.

2. Plaintiff had preferred a suit for Specific Performance of Agreement to Sell dated 09.04.2015, regarding 3/1103 share of total land



measuring 55 kanal 03 marla along with a shop situated within revenue estate of Village Farrukh Nagar, Tehsil Farrukh Nagar, District Gurugram. It is the case of plaintiff that defendant had agreed to sell the said plot and shop for total sale consideration of Rs.40,00,000/-. The total sale consideration of Rs.40,00,000/- was paid at the time of executing the agreement to sell on 09.04.2015 and last date for execution of sale deed was fixed for 09.06.2015. That on 09.06.2015 plaintiff remained present in the office of Sub-Registrar, Farrukh Nagar, however, despite requests, reminders and even after issuance of a legal notice dated 31.05.2016, defendant failed to come to the office of Sub-Registrar and perform her part of contract by executing sale deed in favour of plaintiff or his nominee. That on 03.05.2017, plaintiff had again requested defendant to execute the sale deed but on her refusal, suit for specific performance was preferred.

3. Defendant had contested the suit by filing detailed written statement, taking number of preliminary objections as regards locus standi, maintainability, etc. It was asserted that plaintiff is a property dealer, whereas defendant is simpleton, illiterate lady having no knowledge regarding property transactions. That the younger sister-in-law of defendant, Ram Rati, had purchased a shop measuring 19.4 square yards situated in Lal Dora, Ward No.10, Farrukh Nagar vide sale deed No.730 dated 16.06.2015 for a total amount of Rs.5,94,700/-. Ram Rati had obtained thumb impressions of defendant on some papers regarding sale of shop. It was asserted that the alleged agreement is false, fabricated and concocted one. Defendant further prayed collusion between Ram Rati and plaintiff only to



garb valuable land of plaintiff. Defendant denied execution of any agreement to sell dated 09.04.2015 in favour of the plaintiff.

4. From the pleadings of parties, following issues were framed :-
 1. Whether the plaintiff is entitled to decree for possession by way of Specific Performance to a suit property as agreement to sell dated 09.04.2015 as prayed for? OPP
 2. If issue No.1 is proved whether the plaintiff is entitled to consequential relief of permanent injunction against the defendant as prayed for? OPP
 3. Whether the plaintiff has no cause of action and locus standi to file the present suit? OPD
 4. Whether the suit of plaintiff is not maintainable in the present form? OPD
 5. Whether present suit is barred by law of limitation? OPD
 6. Whether the plaintiff has concealed true and material facts from this Court? OPD
 7. Relief.
5. Appellant is challenging the agreement to sell dated 09.04.2015, on the grounds that her signatures were taken in a fraudulent manner. The appellant reiterated that the actual transaction was the sale of the shop to Ram Rati vide sale deed dated 16.06.2015. It was asserted that agreement to sell is surrounded by suspicious circumstances as it does not bear signature or seal of the scribe and scribe Kuldeep was not examined. Evidence of attesting witnesses i.e. PW2 and PW3 is inconsistent, contradictory and unreliable. Evidence of plaintiff and attesting witnesses is contradictory on crucial aspects. That PW3 asserted to have signed in Urdu whereas signatures on agreement were found to be in Hindi. That plaintiff has failed to prove source of consideration of Rs.40,00,000/- allegedly paid in cash to



the defendant. It is accordingly argued on behalf of appellant that due execution of agreement to sell dated 09.04.2015 is not proved and learned Courts below have erred in accepting case of plaintiff. Both the Courts have concluded that plaintiff has succeeded in proving due execution of agreement to sell dated 09.04.2015.

6. On consideration, I find that in the present case plaintiff has not denied her thumb impression over the agreement rather has claimed that Ram Rati has misused her thumb impression and had taken the same with regard to different transaction. However, there is no material except for oral assertions of plaintiff to conclude that Ram Rati had misused her thumb impressions and the said agreement to sell was result of forgery as being claimed by defendant/appellant. The onus to prove forgery/fraud was upon defendant/appellant which she has failed to discharge.

7. In the present case, not only defendant has admitted her thumb impression on the sale deed dated 16.06.2015 and has failed to explain her thumb impression on agreement dated 09.04.2015. Plaintiff/respondent has on the other hand examined both the attesting witnesses to prove due execution of agreement. Both PW2 and PW3 as well as plaintiff have duly stated about due execution of agreement to sell. PW2 and PW3 both have asserted that in their presence agreement was prepared, read over to all the parties and was duly executed by defendant in their presence. Both the attesting witnesses have duly asserted that payment of Rs.40,00,000/- was made in their presence at the Tehsil Office in Farrukh Nagar. Perusal of cross-examination of PW3 goes to show that initially he stated that he



generally signs in Urdu, but stated that he also signs in Hindi and English, therefore, merely because he also signs in Urdu, it cannot be concluded that he had contradicted himself as his signatures were in Hindi on the agreement. Both the witnesses have duly stated that the agreement was scribed by Kuldeep and was executed in his presence at his seat.

8. Further plaintiff have duly examined PW7 Kuldeep, stamp vendor, who had produced his stamp register duly proving purchase of stamp paper in the name of Bala Devi on 09.04.2015, after verification of her identity. In fact, defendant/appellant had not stepped into witness box, rather had examined only her husband as DW1, who had simply denied agreement to sell. In his cross-examination he had duly admitted that Ram Rati is his sister-in-law and both he and her wife continues to have good relations with her and they never had any quarrel. Therefore, it is clearly established that Ram Rati and defendant belongs to same family, whereas, plaintiff was outsider. Defendant and Ram Rati have good relations. There is no material to conclude that Ram Rati had defrauded appellant or had sided with outsider specially in view of evidence of DW1, who had stated relations between Ram Rati and defendant were cordial. Learned First Appellate Court has duly noticed that plaintiff has been executing number of property relating transactions, as is clearly established vide sale deed Exhibit P-8, P-9 and P-10, wherein defendant/appellant was a party. Once the due execution of agreement is established by witnesses examined by plaintiff and failure of defendant to show fraud, then, recital regarding payment of sale consideration in the agreement to sell is required to be accepted.



9. Similarly, merely because amount was Rs.40,00,000/- and was paid in cash is not sufficient to raise doubt over due execution of agreement to sell upon which defendant/appellant has not denied her thumb impression and same stands proved by independent evidence of attesting witnesses and that of stamp vendor. Similarly, non-examination of scribe of agreement to sell is not fatal to the case of plaintiff as both the attesting witnesses have been examined and stated about presence of scribe Kuldeep at the time of execution of agreement.

10. Faced with the above conclusions, learned counsel for appellant has argued that plaintiff has failed to show his readiness and willingness as suit was filed after about two years in 2017 for Specific Performance of Agreement dated 09.04.2015. However, in the present case entire sale consideration was paid at the time of execution of sale deed. Nothing was left to be performed on the part of plaintiff/purchaser. He was to get the sale deed executed in his favour and for said purpose he remained present in the office of Tehsildar Farrukh Nagar on 09.06.2015. Sub-Registrar duly made endorsement regarding presence of plaintiff and the fact that he had moved an application for marking his presence by making endorsement that there was no provision for marking of presence.

11. Further Exhibit P-7 Affidavit dated 21.06.2016 goes to show that plaintiff had again visited Office of Sub-Registrar and got his presence marked before Executive Magistrate, Farrukh Nagar. This goes to show readiness and willingness on the part of plaintiff throughout to get the sale deed in his favour. It is worth noticing that vide sale deed dated 16.06.2015

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duly executed by plaintiff in favour of Ram Rati, part of suit land i.e. shop measuring 19 square yards was transferred/sold by plaintiff herself. It is worth noticing that last date of execution of agreement dated 09.04.2015 was 09.06.2015. Sale of part of suit land, in favour of Ram Rati who is stated to be nominee of plaintiff in fact also goes to establish due execution of agreement in favour of plaintiff.

12 In view of the concurrent findings of facts recorded by learned Courts below, no interference is warranted. No question of law arises in the facts and circumstances of the present case.

13. There is no merit in the appeal and the same is dismissed.

08.09.2025
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No