

2025:PHHC:099540



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

**RSA-3503-2023 (O&M)
Reserved on : 28.07.2025
Pronounced on : 05.08.2025**

KAMLA DEVI Appellant

VERSUS

VIKAS AND ORS Respondents

AND

RSA-3540-2023 (O&M)

KAMLA DEVI Appellant

VERSUS

KRISHANA AND ORS Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anil Kumar Bhardwaj, Advocate
for the appellant in both the appeals.

ALKA SARIN, J.

1. The present judgement shall dispose off the above noted two regular second appeals being RSA-3503-2023 and RSA-3540-2023 both filed by the plaintiff-appellant, namely, Kamla Devi challenging the judgments and decrees dated 16.07.2019 passed by the learned Additional Civil Judge (Senior Division), at Kharkhoda, Sonipat and dated 04.09.2023 passed by the learned District Judge, Sonipat.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellant herein filed a suit for possession by way of specific performance of

agreement to sell dated 27.02.2009. It was averred in the plaint that the defendants in the plaint i.e. Krishna, Vikas, Sunil and Rakesh along with one Anil had entered into an agreement to sell land measuring 13 Kanal 3 Marla as fully detailed in the plaint for a total sale consideration of ₹3,50,000 (rupees three lakh fifty thousand). It was the case set up that the entire sale consideration was paid and the defendants along with Anil executed the receipt acknowledging having received the amount of ₹3,50,000 (rupees three lakh fifty thousand) in the presence of witnesses. Anil is stated to have sold his share i.e. 1/15th share vide registered sale deed bearing No.2672 dated 19.11.2014. It was averred that at the time of execution of the agreement to sell the defendant No.1, namely, Krishna (respondent No.1 in RSA-3540-2023 and respondent No.2 in RSA-3503-2023) and defendant No.2, namely, Vikas (respondent No.1 in RSA-3503-2023) had assured the plaintiff-appellant that they would get the signatures of defendants No.3 and 4, namely, Sunil and Rakesh (respondents No.2 and 3 in RSA-3540-2023 and respondents No.3 and 4 in RSA-3503-2023) on the agreement to sell as well as the receipt. However, they kept delaying the matter on one pretext or the other. Defendants No.3 and 4, namely, Sunil and Rakesh (respondents No.2 and 3 in RSA-3540-2023 and respondents No.3 and 4 in RSA-3503-2023) are stated to have telephonically agreed to honour the agreement to sell as well as the receipt. The sale deed was agreed to be executed on 15.11.2014. On the said date, defendants No.1, 2 and 4, namely Krishna, Sunil and Rakesh (respondents in RSA-3540-2023 and respondents No.2 to 4 in RSA-3503-2023) came present before the Sub-Registrar Kharkhoda and

stamp papers were also purchased by the plaintiff-appellant of ₹86,700 (rupees eighty-six thousand seven hundred). Sale deed was scribed and handed over to defendants No.1, 2 and 4, namely Krishna, Sunil and Rakesh (respondents in RSA-3540-2023 and respondents No.2 to 4 in RSA-3503-2023). However, they fled from the Office of Sub-Registrar without executing the sale deed. It was further the case that the plaintiff-appellant was still ready and willing to perform her part of the agreement.

3. Defendant-respondents herein contested the suit by filing their written statement raising various preliminary objections qua maintainability, cause of action, etc. On merits it was denied that any agreement to sell was executed as alleged on 27.02.2009. The execution of the receipt was also denied. It was further denied that any amount was received from the plaintiff-appellant as alleged. It was further the case set up in the written statement that the plaintiff-appellant in collusion with Anil had prepared a forged agreement and receipt which are not binding on the rights of the defendant-respondents herein. Allegations qua visit to the office of the Sub-Registrar were also denied.

4. From the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is entitled to a decree for possession by way of specific performance for enforcement of the agreement dated 27.02.2009 ? OPP
2. Whether the plaintiff is entitled to a decree for permanent injunction, as prayed for ? OPP

3. Whether the suit of the plaintiff is not maintainable in its present form ? OPD
4. Whether the plaintiff has no cause of action to file the present suit ? OPD
5. Whether the plaintiff has not come with clean hands before the court ? OPD
6. Relief.

5. The Trial Court vide judgement and decree dated 16.07.2019 partly decreed the suit holding that only defendant No.2, namely, Vikas (respondent No.1 in RSA-3503-2023) shall execute the sale deed in favour of the plaintiff-appellant as per the agreement to sell dated 27.02.2009 within a period of two months. Aggrieved by the same, two separate appeals were preferred before the First Appellate Court - one by the plaintiff-appellant and the other by defendant No.2, namely, Vikas (respondent No.1 in RSA-3503-2023). Vide judgment and decree dated 04.09.2023 the appeal filed by defendant No.2, namely, Vikas (respondent No.1 in RSA-3503-2023) was accepted while the appeal filed by the plaintiff-appellant was dismissed. Hence, the present two separate regular second appeals by the plaintiff-appellant.

6. Learned counsel for the plaintiff-appellant has vehemently contended that the execution of the agreement to sell and the receipt was duly proved by the witnesses. It was further the contention of the learned counsel that stamp papers were purchased by the plaintiff-appellant worth ₹86,700 (rupees eighty-six thousand seven hundred) and the sale deed was

also scribed but at the last minute the defendant-respondents fled from the scene. It was urged that the suit deserved to be decreed in totality.

7. Heard learned counsel for the plaintiff-appellant and perused the record.

8. In the present case the First Appellate Court vide detailed judgment and decree dated 04.09.2023 has dealt with the suspicious circumstances surrounding the agreement to sell (Ex.P-2) as under :

(i) that the same has not been signed by any of the sellers/defendants on page No.1 except Anil;

(ii) that out of five vendors signatures of two of them namely Sunil and Rakesh are neither available on page No.1 or page No.2;

(iii) thumb mark present on the page No.2 of sale deed which is allegedly being stated to be of Krishana is neither marked by her name nor it is mentioned to be LTI or RTI;

(iv) that there is a collusion between plaintiff and Anil, who is not real son/brother of defendants. He was adopted son of defendant No.1's husband;

(v) that Ex.P-3 which is stated to be receipt of earnest money is not thumb marked by Krishana and only shown to be signed by Anil and Vikas. There was no reason for not getting thumb impressions of Krishana on Ex.P-3 when both Ex.P-2 and Ex.P-3 were executed on the same

day and same time as per plaintiff. This clearly shows that Ex.P-2 & Ex.P-3 are forged and fabricated;

(vi) as per circle rates of land for year 2009 and 2014 as shown in Ex.D-1 falling in village Khanda was 16 lacs per Acre in year 2009 and Rs.18 lac per Acre in year 2014. He argued that market price is always more than Circle rate as Circle rate is prescribed as minimum amount for payment of stamp duty and in agreement total consideration has been shown as Rs.3,50,000/- whereas circle rate was Rs.26,00,000/- and market rate was much higher even in 2009;

(vii) that sale deed executed by Anil on 19.11.2014 (Ex.P-11) shows that consideration amount for 2K 13M land which fell to the share of Anil was Rs.7,15,000/- and it was specifically mentioned in sale deed that no agreement was ever executed between the parties for sale of said land. He submits that this fact goes to show that agreement Ex.P-2 is forged, fabricated, which has been shown to be for total consideration of Rs.3,50,000/- for 13K -2 M land;

(viii) Mark G draft of agreement dated 05.11.2014 is an afterthought on the part of the plaintiff to create false evidence as from draft itself it is clearly made out that draft was made only to create evidence as Anil had not

executed sale deed by that date as he had executed sale deed on 19.11.2014 is not shown to be signatory to the draft agreement. Similarly, another seller Sunil has not been shown to be a seller in said draft. That draft dated 05.11.2014 is not signed by any body and has not been proved in evidence in accordance with law as no scribe or person who had prepared it had been examined specially when name of scribe is mentioned on the draft.

(ix) that in draft Mark G dated 05.11.2014 and sale deed Ex.P-11 executed by Anil on 19.11.2014 it is clearly mentioned that no written agreement exists between the parties;

(x) that assertions made in Ex.P-2 are belied by fact that plaintiff had filed suit for specific performance with possession. He has referred to plaint, pleadings as well as relief clause showing that plaintiff had sought not only relief of specific performance but also of possession which is contrary to facts stated in agreement;

(Learned counsel for plaintiff, however, stated that relief of possession has been inadvertently sought by learned counsel in routine).

9. Interestingly, the agreement to sell and the receipt (Ex.P-2 and Ex.P-3) admittedly were not signed by defendants No.3 and 4, namely, Sunil and Rakesh (respondents No.2 and 3 in RSA-3540-2023 and respondents

No.3 and 4 in RSA-3503-2023). In the absence of signatures of Sunil and Rakesh, they possibly cannot be held to be bound by the agreement to sell and the receipt. There was no authority given to the other defendants by Sunil and Rakesh to sell the property. Signatures and thumb impressions were denied by the defendant-respondents stating that the agreement was forged and fabricated. The onus to prove the agreement to sell was on the plaintiff-appellant who failed to examine any handwriting expert to show that the thumb impression was of Krishna. Infact, as noticed by both the Courts concerned, the alleged thumb impression of Krishna does not even mention whether it is Left Thumb Impression (LTI) or the Right Thumb Impression (RTI). It has further been observed by the First Appellant Court that the alleged draft sale deed (Mark G) does not find mention the name of all the defendants. It has been shown to have been executed only on behalf of Krishna, Vikas and Rakesh (defendants No.1, 2 and 4). The names of Sunil (defendant No.3) and Anil are not mentioned therein. Though Anil is stated to have executed the sale deed on 19.11.2014, however why his name was not included in the draft sale deed alleged to have been prepared on 05.11.2014 remains unexplained. Further, no explanation is coming as to why in the sale deed dated 19.11.2014 (Ex.P-11), stated to have been executed by Anil, the sale consideration of land of 2 Kanal 13 Marla is ₹7,13,000 (rupees seven lakh thirteen thousand) and it specifically states that no agreement was ever executed between the parties qua the said land whereas the agreement to sell (Ex.P-2) shows the total sale consideration for 13 Kanal 3 Marla of land, which includes the share of Anil, as ₹3,50,000

(rupees three lakh fifty thousand). Learned counsel for the plaintiff-appellant had not been able to convince this Court that the agreement to sell dated 27.02.2009 was a genuine document. Merely because the stamp paper was purchased it cannot be held that the agreement was genuine. Learned counsel for the plaintiff-appellant has been unable to convince this Court to accept his contentions.

10. In view of the above I do not find any merit in the present two regular second appeals. No question of law, much less substantial question of law arises in the present case, which requires determination by this Court. The appeals, which are wholly devoid of any merit, are accordingly dismissed. Pending applications, if any, also stand disposed off.

05.08.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No