



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

117

RSA-467-2024 (O&M)
Date of Decision: 05.09.2025

Darshana @ Pushpa Rani

...Appellant

V/s

Khushal Chand and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Anmol Puri, Advocate, for the appellant.

VIKRAM AGGARWAL, J (ORAL)**CM-1708-C-2024**

Prayer in the present application preferred under Section 151 CPC is for condonation of delay of 60 days in refiling the appeal.

Heard.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed. The delay of 60 days in refiling the appeal is condoned.

RSA-467-2024 (O&M)

This is plaintiff's appeal against the judgment and decree dated 21.09.2023 passed by the Court of Addl. District Judge, Ferozepur, dismissing the appeal filed against the judgment and decree dated 11.07.2018 passed by the Court of Addl. Civil Judge (Sr. Divn.), Guruharsahai, vide which the suit of the plaintiff for declaration was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The plaintiff (Darshana) instituted a suit for declaration to the effect that she was owner in possession of land to the extent of 1/4th share out of land measuring 28 kanals (fully described in the plaint) situated in the revenue estate of Village Chak Megha Viran, Tehsil Guruharsahai, District Ferozepur (hereinafter referred to as the "suit land") and that the sale deed dated 19.09.1990 allegedly executed by the plaintiff through defendant No.4 in favour of defendants No.1 to 3 was the result of fraud committed by defendants No.1 to 4 and the sale deed was null and void to the extent of share



of the plaintiff. Consequential relief of possession was also sought.

3.1 It was averred that the suit land was being managed by defendant No.4 (Reshma), who was the mother of the plaintiff. Defendant No.4 used to pay *theka* (rent) to the plaintiff to the extent of her share. However, on the basis of some forged and fabricated power of attorney, defendant No.4 executed a sale deed dated 19.09.1990 in favour of defendants No.1 to 3.

3.2 When defendant No.4 refused to pay the *theka* and stated that she had sold the suit land to defendants No.1 to 3, the plaintiff came to know about the said fact. It was also averred that the whereabouts of defendant No.5 (Hans Raj) were not known since 1985 and, therefore, the sale deed to the extent of his share was also null and void.

4. The suit was opposed by the defendants. In the written statement filed by defendant No.1, certain preliminary objections as regards maintainability, estoppel, the suit being bad for non-joinder/misjoinder of necessary parties, limitation, the plaintiff not having approached the Court with clean hands etc. were raised. On merits, it was averred that the sale deed was valid and that the plaintiff had duly appeared at the time of execution of the sale deed by defendant No.4, who was the general power of attorney holder of the plaintiff.

4.1 Defendant No.6 (Swarna) filed a separate written statement and took a stand that she had never executed any sale deed. Defendants No.2 to 5 were proceeded against *ex parte*. No replication was filed.

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

- “1. Whether the plaintiff is entitled for declaration as prayed for?OPP**
- 2. Whether the plaintiff has not come to the Hon’ble Court with clean hands and concealed the material and true facts from the Court?OPD**
- 3. Whether the suit is bad for non-joinder or mis-joinder of the**



necessary parties?OPD

- 4. Whether the suit of the plaintiff is not maintainable?OPP***
- 5. Whether the suit of the plaintiff is barred by law of limitation?OPD***
- 6. Whether the present suit is false, frivolous, vague, malicious?OPD***
- 7. Relief.”***

6. Parties led their respective evidence. The trial Court dismissed the suit and the appeal filed by the plaintiff against that decision was also dismissed by the Court of Addl. District Judge, Ferozepur, leading to filing of the present regular second appeal.

7. I have heard learned counsel for the appellant.

8. Learned counsel for the appellant submits that both Courts have erred in non-suiting the plaintiff. Learned counsel has referred to the oral and documentary evidence led on the record of the case and has made strenuous efforts to convince the Court that the impugned judgments and decrees are not sustainable.

9. I have considered the submissions made by learned counsel for the appellant but find the same to be devoid of merit.

10. Though it was the case of the plaintiff that no power of attorney had been executed, no formal challenge was laid to it nor was any declaration sought as regards the power of attorney dated 10.07.1990 (Ex.P1). In fact, PW2 (Robin Sachdeva) appeared in the witness box and deposed about the power of attorney having been executed. No doubt, the plaintiff examined PW3 (Sanjeev Sharma), who was a finger print and hand writing expert, who produced his report Ex.PW3/1 as per which, the thumb impressions of the plaintiff on the power of attorney dated 10.07.1990 did not match with her admitted/tendered thumb impressions. However, this alone would not help the plaintiff since the plaintiff did not produce any other evidence to prove that her mother (defendant No.4) was paying *theka* (rent) to her on account of



her managing the suit land. Still further, she sought consequential relief of possession despite the fact that as per the revenue record, defendants No.1 to 3 were not in possession of the suit land. It transpired that the suit land had further been alienated but the parties to whom the suit land had been alienated were not arrayed.

10.1 Not only this, defendant No.6 (Swarna) appeared as DW1 and conceded that she had also filed a suit challenging the same power of attorney but her suit had been dismissed. She also admitted that they had never received any *theka* or rent of this land.

10.2 It was further conceded during the course of arguments before the first Appellate Court that Reshma (defendant No.4) was married to one Ram Chand. Out of this wedlock, four sons namely Faqir Chand, Hans Raj, Mulakh Raj, Des Raj and four daughters namely Darshana (plaintiff), Swarna (defendant No.6), Desa and Mahni @ Lakshmi were born. Desa and Mahni @ Lakshmi had expired. However, all Class-1 heirs of Ram Chand were not impleaded in the suit.

10.3 Not only this, the sale deed was executed on 19.09.1990 and the suit was filed on 31.10.2013 i.e. 23 years after the execution of the said power of attorney.

10.4 Further, if at all a fraud had been committed by the mother of the plaintiff, it is not understood as to why no criminal action was initiated. The entire endeavour, therefore, appeared to be to avoid the sale deed executed by the mother of the plaintiff.

11. That being so, no illegality is found in the concurrent findings of facts recorded by both Courts.

12. Consequently, the instant appeal is found to be devoid of merit



and is accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

September 05, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No