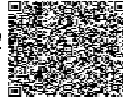


2025:PHHC:149202



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

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RSA-3177-2025 (O&M)

Date of Decision: 29.10.2025

Raj Karni (since deceased) through LRs and another

...Appellants

VersusTarsem Lal and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sanjeev Kumar Arora, Advocate, for the
appellants.

VIKRAM AGGARWAL, J.

This is plaintiffs' appeal against the judgment and decree dated 29.07.2025 passed by the Court of Additional District Judge, Faridkot, dismissing the appeal against the judgment and decree dated 24.01.2024 passed by the Court of Civil Judge (Senior Division), Faridkot, vide which the suit of the plaintiffs was dismissed.

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

3. The plaintiffs filed a suit declaration that they are co-sharers in possession of 2/4th share in house built on 751/2 square having Municipal No. X/9 situated in Balbir Basti, Main Road, Faridkot (fully detailed in the plaint) [hereinafter referred to as 'the suit property'] and the alleged

sale deed dated 12.12.2007 registered on 13.12.2007 was not binding on their rights, being fictitious and procured with misrepresentation and thus, liable to be set aside. Consequential relief of permanent injunction restraining the defendants from alienating the said share of the plaintiffs, in any manner by way of mortgage, sale, lease, transfer etc., was also sought.

4. It was claimed that the suit property was owned by one Hans Raj, predecessor-in-interest of the parties. After his death, the plaintiffs and their brother Mangat Ram, jointly became owners in possession of the said property. It was further asserted that Mangat Ram along with his sons (defendants) came with a proposal to obtain a loan from the Bank and at that time, plaintiff No.2 Darshan Lal also came to meet plaintiff No.1 and keeping in view the close relations between the parties, a document was executed to get the bank loan to the tune of Rs.1.25 lakh and under the said pretext, the defendants got executed a document of transfer from the plaintiffs. However, the said document was executed without any consideration and hence, the defendants had no proprietary rights whatsoever, in the suit property. The defendants had got the sale deed prepared from the plaintiffs under the misrepresentation of obtaining a loan from the bank. The said sale deed was termed to be the result of a fraud by the defendants.

5. The defendants filed their written statement taking preliminary objections regarding maintainability; locus-standi

and the suit not being properly valued for the purpose of Court fee. On merits, the factum of the suit property previously owned by Hans Raj (predecessor-in-interest of the parties) and post his death, the same having been inherited by the plaintiffs and his three sons, was admitted. It was, however, asserted that as a result of the family settlement, the property fallen to the share of the plaintiffs had been sold to the defendants vide sale deed dated 12.12.2007 for a sale consideration of Rs.1,25,000/-. The allegations of fraud and the sale deed being without any consideration, were denied.

6. From the pleadings of the parties the following issues were framed:-

1. Whether the sale deed dated 12.02.2007 got executed by defendants from the plaintiffs by playing fraud and misrepresentation of facts and is not binding upon the rights of plaintiff in the suit property and is liable to be set aside, as alleged? OPP
2. If issue No. 1 stands proved in favour of plaintiffs, whether he is entitled to the relief of declaration? OPP
3. Whether plaintiffs are entitled to the relief of permanent injunction, as prayed for? OPP
4. Whether suit of plaintiffs for mere declaration is not maintainable? OPD
5. Whether plaintiffs have no locus standi to file the present suit? OPD
6. Relief.

7. Parties led their respective evidence.

8. The trial Court dismissed the suit vide judgment and decree dated 24.01.2024. The appeal filed by the

defendant was dismissed vide judgment and decree dated 29.07.2025 passed by the first Appellate Court.

9. I have heard learned counsel for the appellants.

10. Learned counsel for the appellant submits that both Courts have failed to take into consideration that the alleged sale deed dated 12.12.2007 was a result of fraud and misrepresentation and as a matter of fact, the defendants had obtained the said document taking benefit of the close relations between the parties. It is further argued that it is settled law that any sale without consideration is void and in the instant case, no consideration had passed to the appellants and, therefore, the sale deed was liable to be set aside. Learned counsel further argues that as per the family settlement/partition (Exhibit P.2), the parties were owners to the extent of their respective shares and the defendants had never denied the factum of such settlement. It is further argued that PW2-Bikramjit Singh, had resiled from his statement, but despite that both Courts believed the version of the said witness. Still further, learned counsel argues that Mangat Ram, another attesting witness of the sale deed was not examined and the said witness was the relevant witness to depose about any sale consideration. It is, thus, argued that the findings recorded by the Courts below, are liable to be set aside.

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

12. The plaintiffs had sought declaration qua the sale deed dated 12.12.2007 (Exhibit P.1) being not binding upon their rights on the ground that the same was obtained by fraud and misrepresentation. However, both Courts on the basis of evidence led by the parties, found that the execution of the said sale deed stood proved on record. PW2-Bikramjit Singh, Nambardar, examined by the plaintiffs had deposed about the due execution of the said document and had further deposed that there was no talk of any security to be given to the bank.

13. On the basis of the testimony of PW1-Darshan Lal (plaintiff No.2), who deposed that there was a family settlement between the parties and such settlement was also proved on record as Exhibit P.2, the plea of the plaintiffs that the suit property was a joint property, was found to be devoid of merit by both Courts. Still further, it was found that the account statement(s) of the defendants brought by the official of the Bank, had established that on 11.12.2007, there was withdrawal of Rs. One lakh from the account of defendant No.1-Tarsem Lal and Rs.40,000/- from the account of defendant No.2-Raj Kumar. Such evidence was led in rebuttal by the plaintiffs themselves. The stand taken by the defendants was that the sale consideration of Rs.1,25,000/- was paid in cash. It was, thus, found that on the basis of the rebuttal evidence led by the plaintiffs themselves, the factum of passing of consideration, stood proved on record.

14. Merely because another attesting witness of the aforesaid sale deed was not examined, is no ground to hold that the findings recorded by the Courts below are perverse, especially when learned counsel for the appellants could not point out any illegality in the said findings. The argument that PW2-Bikramjit Singh, had been won over by the defendants, was rightly discarded by both Courts for the reason that the said witness deposed in his cross-examination that he did not know English and his affidavit Ex. PW2/A (tendered in examination-in-chief) was not read over to him and he had simply put his signatures on the said affidavit.

15. Both Courts have recorded concurrent findings of facts on the basis of evidence led by the parties. Learned counsel for the appellants could not point out any illegality in the said findings. It could not be pointed out that any evidence has been misread or not taken into consideration.

16. In view of the aforementioned facts and circumstances, I do not find any merit in the present appeal and the same is accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

29.10.2025

ds

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