

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

RSA-1383-2020 (O&M)
Reserved on : 05.09.2025
Pronounced on : 09.09.2025

Avtar Singh

....Appellant

VERSUS

Manjit Singh and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amrit Singh Kang, Advocate for the appellant.

ALKA SARIN, J.

1. The present appeal has been preferred by the plaintiff-appellant challenging the judgements and decrees dated 31.03.2018 and 03.09.2019 passed by the Trial Court and the First Appellate Court, respectively, whereby his suit has been dismissed.

2. Briefly the facts relevant to the present *lis* are that the plaintiff-appellant filed a civil suit for recovery of Rs.15,00,000/- and further suit for unliquidated damages suffered by the plaintiff-appellant on account of harassment, mental agony, fraud and cheating. It was the case set up by the plaintiff-appellant that he is a permanent resident of Village Saidpura, Tehsil Dera Bassi, District SAS Nagar. In the month of May 2005 the plaintiff-appellant approached defendant-respondent No.1 who showed one plot measuring 06 marlas situated at Village Ballomajra, Tehsil and District SAS Nagar. The said plot was adjoining to Green Enclave. The plaintiff-appellant, after inspecting the spot of the plot, agreed to purchase the same. Defendant-

respondent No.1 being attorney of defendant-respondent No.2 executed a registered sale deed of the plot in question. It was further the case set up that the plot is situated in Khewat/Khatauni No.1/1, Khasra Nos.14//9/1(3-8), 11/1(1-1), 10/1(3-8), 10/2(4-11), 15//6/1(2-2), 6/2(2-2) Village Ballomajra, Tehsil and District SAS Nagar. The plaintiff-appellant claimed that at the time of execution of the sale deed he paid an amount of Rs.14,50,000/- in cash and Rs.50,000/- had already been paid as earnest money and a total amount of Rs.15,00,000/- was paid. After the execution of the sale deed, the plaintiff-appellant took symbolic possession. In the year 2014 when the plaintiff-appellant went to start construction on the plot, one M/s Taneja Developers and Infrastructure Ltd. came to the spot and stated that the plot in question is owned and possessed by them. Thereafter, the plaintiff-appellant is stated to have approached defendant-respondent No.1 and disclosed the entire facts and the defendant-respondent No.1 agreed to execute the sale deed of another plot in favour of the plaintiff-appellant. However, when defendant-respondent No.1 resiled to do the same, a criminal case was also registered against him. It was further the case that the plot mentioned in the sale deed dated 14.05.2005 was not in existence and defendant-respondent No.1 had misused the money of the plaintiff-appellant. Defendant-respondent No.2 was proceeded against *ex parte*. Defendant-respondent No.1 appeared and filed his written statement denying the averments made in the plaint. It was stated that defendant-respondent No.1 as attorney of defendant-respondent No.2 had executed the sale deed in favour of the plaintiff-appellant in respect of the plot and a mutation had also been sanctioned in favour of the plaintiff-appellant. Neither the sale deed nor the mutation had been challenged by anyone till date and the same still stood in the name of the plaintiff-appellant. It was further

the stand that the defendant-respondent No.1 never showed the plot in question to the plaintiff-appellant but rather showed him another plot. It was further averred that the plaintiff-appellant is a co-sharer in the suit property and instead of filing a suit for partition he had filed the present suit. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled for recovery of Rs.15,00,000/-as prayed for ? OPP
2. Whether the suit of the plaintiff is barred by limitation ? OPD
3. Whether the suit is not maintainable in the present form ? OPD
4. Whether the present suit is filed by plaintiff in connivance with defendant No. 2 ? OPD
5. Relief.

3. The Trial Court dismissed the suit vide judgment and decree dated 31.03.2018. Aggrieved by the same an appeal was preferred by the plaintiff-appellant which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 03.09.2019. Hence, the present regular second appeal.

4. Learned counsel for the plaintiff-appellant would contend that both the Courts have erred in dismissing his suit. It is urged that a fraud has been played upon the plaintiff-appellant inasmuch as the plot which was shown to the plaintiff-appellant was claimed by M/s Taneja Developers and Infrastructure Ltd. to be owned and possessed by them hence the suit for recovery of Rs.15,00,000/- and damages ought to have been decreed.

5. Heard.

6. In the present case the case as set up by the plaintiff-appellant was not supported by any evidence. The plaintiff-appellant himself in his

cross-examination admitted that after the registration of the sale deed in his favour the mutation had also been sanctioned in his name and that since 2005 till 2014 no action was taken by him. Further, the revenue documents produced on the record and, as has been mentioned in the sale deed also, the plaintiff-appellant is one of the co-sharers in the land fully detailed in the plaint. The only option with the plaintiff-appellant as held by both the Courts was to get the demarcation of the plot in question and also to file a suit for partition against the co-sharers to take physical possession of the property in question. It is to be noted that the plaintiff-appellant himself in the plaint had taken a stand that after the execution of the sale deed only symbolic possession was given to him. Once only symbolic possession was given to him, the only remedy with the plaintiff-appellant was to file a suit for partition. The sale deed still stands in the name of the plaintiff-appellant and therefore the plaintiff-appellant has the remedy to seek a partition of the land.

7. In view of the above, no fault can be found with the findings recorded by both the Courts. No cogent and reliable evidence has been referred to by the learned counsel for the plaintiff-appellant to remotely suggest that any fraud has been played or that the plot in question did not exist.

8. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

09.09.2025
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO