



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

**RSA No. 1283 of 2023 (O&M)
Date of Decision: 21.04.2026**

Phool Wati and others

..... Appellants-plaintiffs

Versus

M/s. Sahar Land & Housing Pvt. Ltd. & another

..... Respondents-defendants.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. R.S. Sangwan, Advocate
for the appellants-plaintiffs.

Mr. Ashish Gupta, Advocate
for the Caveators/respondents-defendants.

HARKESH MANUJA, J. (ORAL)

The plaintiffs are in appeal. First appeal filed by the plaintiffs was dismissed by the learned First Appellate Court. For the sake of convenience, the parties are referred to as per their status in the Civil Suit.

[2] By way of present appeal, challenge has been laid to the judgment and decree dated 11.10.2022 passed by the learned District Judge, Gurugram (**hereinafter to be referred as “First Appellate Court”**), whereby an appeal filed at the instance of appellants-plaintiffs against the judgment and decree dated 10.11.2021 passed by the Court of learned Additional Civil Judge (Senior Division), Gurugram (**hereinafter to be referred as “trial Court”**), dismissing their suit for declaration, cancellation and possession with a consequential relief of permanent and mandatory

injunction was dismissed; thereby affirming the judgment and decree passed by the learned trial Court.

[3] Briefly, the facts of the present case are that the plaintiffs are real sisters and the defendant No. 2-Bhagwana is their real brother. It was alleged that as per Jamabandi for the year 2000-01, their father, namely, Kehar Singh was owner in possession of agricultural land comprising in Khewat/Khata No. 58/85, Rect. No. 12, Killa Nos. 3/2(6-4), 7(7-11), 8(8-0), 9/1(4-0), 12/2(2-0), 13/1(4-0), 14/1(2-2), total measuring 33 Kanals 17 Marlas situated in the revenue estate of village Sikanderpur Badha, Tehsil and District Gurgaon, Haryana (**hereinafter referred to as “suit property”**). Sh. Kehar Singh died on 11.12.2005 leaving behind the plaintiffs and defendant No. 2-Bhagwana as his legal heirs. It was alleged that the suit property was ancestral property in the hands of their father- Kehar Singh, therefore, he had no right to alienate the suit property or any part thereof in the absence of legal necessity, however, he sold the same vide sale deed No. 9374 dated 08.08.2005 to defendant No. 1 (M/s. Sahar Land & Housing Private Limited, New Delhi). It was also pleaded that although with regard to execution of above mentioned sale deed, the mutation No. 844 dated 29.09.2005 was sanctioned, but they were not aware of any such sale transaction till 18.08.2016 as for them, it was the defendant No. 2 who was cultivating the suit land. Hence, the appellants-plaintiffs challenged the transfer of suit property by their father, i.e. *Karta* of their family, without any legal necessity besides claiming possession as well as permanent injunction qua the suit property. Hence, the suit was instituted.

[4] Upon notice, respondent No. 1-defendant no.1 appeared and filed written statement taking preliminary objections regarding maintainability of the suit, cause of action, limitation, concealment of true material facts from the Court etc, and *inter alia* prayed for dismissal of the suit.

[5] Respondent No. 2-defendant No. 2 initially appeared before the Court through counsel but without filing any written statement chose to be proceeded against *ex parte*. Accordingly, he was declared *ex parte* vide order dated 29.04.2017.

[6] Replication controverting the averments made in the written statements was filed. On the basis of pleadings of the parties, the learned trial Court framed the following issues on 29.04.2017:-

1. *Whether the plaintiffs are entitled to a decree for declaration, cancellation, possession, mandatory and permanent injunction with consequential relief as alleged on the grounds taken in the plaint? OPP*
2. *Whether the plaintiffs have no cause of action to file the present suit?OPD*
3. *Whether the plaintiffs are estopped from filing the present suit by their own acts and conduct?OPD*
4. *Whether the plaintiffs have suppressed the true and material facts and not come to the court with clean hands?OPD*
5. *Whether the suit is bad for mis-joinder and nonjoinder of necessary parties?OPD*
6. *Whether the suit is not properly valued for the purposes of court fee and jurisdiction?OPD*
7. *Relief.*

[7] The learned trial Court, vide its judgment and decree dated 10.11.2021, dismissed the suit, filed at the instance of appellants-plaintiffs, while deciding Issue No. 1 against the appellants-plaintiffs. Issue Nos. 2 to 6 were not pressed by the defendants.

[8] Aggrieved thereof, the appellants-plaintiffs filed first appeal, which also came to be dismissed vide judgment and decree dated 11.10.2022 passed by the learned First Appellate Court. Hence, the present Regular Second Appeal.

[9] Impugning the aforesaid judgments and decrees dated 10.11.2021 and 11.10.2022 passed by both the Courts below, learned counsel for the appellants-plaintiffs submits that the Courts below have wrongly interpreted the plaint filed and the deposition of the plaintiff. He contends that the property in question was not self-acquired property of Kehar Singh (father of appellants-plaintiffs); the tenancy rights were also inherited by Kehar Singh by virtue of which only he became owner of the disputed property under the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 and hence he was not competent to alienate the suit property being ancestral in nature. He thus submits that the sale deed dated 08.08.2005 executed by Kehar Singh in favour of respondent No. 1, was liable to be set aside.

No other argument has been raised on behalf of the appellants-plaintiffs.

[10] After hearing learned counsel for the appellants and having gone through the paper-book / records, I am unable to find substance in the submission(s) made on behalf of the appellants-plaintiffs.

[11] It is not disputed that respondent No. 2-defendant No. 2 earlier filed a suit titled as '***Bhagwana Versus M/s Sahar Land and Housing Pvt. Ltd.***', in which the sale deed bearing Vasika no. 9374 dated 08.08.2005 executed in favour of respondent No. 1 was challenged; the grounds taken by respondent No. 2-defendant no. 2 in the said suit were the same as taken by the appellants-plaintiffs in the present suit. The aforementioned suit was dismissed by the Court of learned Civil Judge (Junior Division), Gurgaon on 27.08.2014 (Exhibit D-1) and the appeal filed by respondent No. 2-defendant No. 2 was also dismissed by the Court of learned Additional District Judge, Gurgaon on 06.04.2015 (Exhibit D-3) whereby, the sale deed in question in favour of answering defendant was held to be legal and valid.

[12] Further, as per *jamabandis* Exhibit P-2 to Exhibit P-10, the father of appellants-plaintiffs (Kehar Singh) had been shown to be occupancy tenant. As per revenue entries, it is not disputed that earlier father of Kehar Singh, namely, Buddha was recorded as occupancy tenant over the suit property and he was in possession thereof throughout his life. However, it was only after passing of The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953, the rights of ownership in the appellants-plaintiffs' father were created in the property in question and *jamabandi* for the year 1955-56 (Exhibit P-11) bears testimony of the same. The property in the hands of Kehar Singh was thus his self acquired property and he remained fully competent at all relevant times to alienate the same. So, when the plaintiffs' father sold this property vide Sale Deed Vasika No. 9374 dated 08.08.2005, he was competent to do so and it does not lie in the mouth of the plaintiffs that he was not having any authority to sell the respective share of

the plaintiffs in that agricultural land was not to be termed as ancestral property *qua* plaintiffs.

[13] Furthermore, the appellants-plaintiffs failed to plead and prove the ingredients of any fraud allegedly played upon by the defendant No. 1 upon the deceased-Kehar Singh. Undisputedly, the entire sale consideration against the sale transaction dated 08.08.2005 (Exhibit D-7) was paid through Cheque No. 005678 dated 08.08.2005. Moreover, the said sale deed was even witnessed by Surinder S/o Bhagwana (defendant No. 2). Neither Bhagwana nor even his son Surinder appeared in the witness-box to establish any fraud by the vendee-purchasee/defendant No. 1.

[14] Accordingly, in view of the discussion made hereinabove, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below and there being no misreading or misinterpretation of either the pleadings or the evidence available on record; the present appeal, being devoid of merits, is hereby **dismissed**.

[15] Since, the main appeal has been decided / dismissed, no orders are required to be passed in the pending application(s) and the same shall stand disposed off.

April 21, 2026

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**(HARKESH MANUJA)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>