



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-2385-1990

Pirthi Singh and Others

. . . . Appellant

Vs.

Hari Ram (deceased) thr LRS

. . . . Respondent

Reserved on: 19.03.2026

Pronounced on: 24.03.2026

Pronounced Fully/Operative Part: Fully

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Abhinav Sood, Advocate, for the appellants.

Mr. Ajay Jain, Advocate, for the respondents.

DEEPAK GUPTA, J.

This Regular Second Appeal has been preferred by the defendants against the judgment and decree passed by the learned First Appellate Court, whereby the suit for declaration and for permanent injunction filed by plaintiff Hari Ram (*now represented through his legal representatives*) was decreed, reversing the judgment of the trial Court dated 27.05.1989, which had dismissed the suit.

2. For the sake of convenience, the parties are referred to as per their status before the trial Court. The record of the Courts below, available on DMS, has been carefully perused.

3. The plaintiff instituted the suit seeking declaration to the effect that he is the owner in possession of the agricultural land measuring 89 Kanal 5 Marla situated in village Bhojraj, Tehsil and District Hisar, and that the sale deeds bearing Nos. 5243 and 5244 dated 11.02.1985, executed by his father Chunia son of Uda in favour of the defendants, are illegal, null and void and not binding upon his rights. A consequential relief of permanent

injunction restraining the defendants from interfering in his peaceful possession was also sought.

4. The case set up by the plaintiff is that the suit property originally belonged to his father Chunia. However, pursuant to a family settlement, the property fell to his share, and a decree dated 21.12.1984 was passed in his favour. On the basis of the said decree, mutation No.1080 was also entered. It is the specific case of the plaintiff that after suffering the said decree, Chunia was left with no right, title or interest in the suit land. Despite that, being allegedly addicted to bad habits and at the instance of the defendants, he executed the impugned sale deeds dated 11.02.1985, which are thus liable to be declared null and void.

5. The defendants contested the suit by asserting that at the time of execution of the sale deeds, Chunia was the lawful owner in possession of the suit land and, therefore, competent to transfer the same. It was further pleaded that the decree dated 21.12.1984 was not genuinely suffered by Chunia, but was the result of impersonation. The defendants also claimed protection as bona fide purchasers for value without notice under Section 41 of the Transfer of Property Act, 1882.

6. Upon appreciation of the evidence, the trial Court dismissed the suit. It was observed that the most material witness, namely Chunia himself, had not been examined. The trial Court also drew an adverse inference from the fact that the plaintiff did not effectively challenge the expert evidence regarding thumb impressions on sale deeds, thereby lending support to the defendants' plea of impersonation. It was further held that the defendants had acted as bona fide purchasers after verifying the revenue record, and accordingly, the suit was dismissed.

7.1 However, the First Appellate Court, upon re-appreciation of the entire evidence, reversed the findings of the trial Court. It was held that the decree dated 21.12.1984 in favour of the plaintiff had not been shown to be fraudulent or the result of impersonation. The mutation based upon the said

decree had already been entered on 25.01.1985, i.e. prior to the execution of the sale deeds dated 11.02.1985, though it was formally sanctioned on 04.03.1985. The Appellate Court further found that the plaintiff was recorded in possession of the suit land from Kharif 1985 as per the khasra Girdawari entries.

7.2 The First Appellate Court also held that the defendants had failed to establish that they had made any bona fide inquiry before purchasing the suit property. It was observed that had the defendants consulted the latest revenue record or made inquiries from the Patwari, they would have discovered the mutation entered in favour of the plaintiff on the basis of the decree. In these circumstances, the plea of bona fide purchaser was rejected. Consequently, the suit was decreed.

8. Assailing the aforesaid judgment, learned counsel for the appellants-defendants contends that the First Appellate Court has erred in overlooking the earlier jamabandi entries for the years 1978-79 and 1983-84, which reflected Chunia as owner in possession. It is further argued that the mutation in favour of the plaintiff was sanctioned only after the execution of the sale deeds and, therefore, the defendants could not have had knowledge of the decree. It is also contended that the decree dated 21.12.1984 was the result of fraud and collusion between the plaintiff and his father.

9. *Per contra*, learned counsel for the respondent-plaintiff submits that the decree dated 21.12.1984 has attained finality and cannot be collaterally challenged by the defendants. It is further contended that once mutation had been entered on 25.01.1985, the defendants, by exercising due diligence, could have ascertained the true state of title. It is also argued that a consent decree is binding and remains effective unless set aside in appropriate proceedings.

10. Having heard learned counsel for the parties and upon careful consideration of the record, this Court finds no merit in the present appeal.

11. The central issue in the present case is whether Chunia had any subsisting right, title or interest in the suit property at the time of execution of the sale deeds dated 11.02.1985. Once it is established that prior thereto, a decree had been passed in favour of the plaintiff transferring rights in the property, the competence of Chunia to execute the sale deeds stands extinguished.

12. The decree dated 21.12.1984 in favour of the plaintiff has not been set aside in any independent proceedings. The defendants, being strangers to the said decree, cannot be permitted to challenge its validity in collateral proceedings without leading cogent and convincing evidence of fraud or impersonation. Mere allegation, without substantiation, is insufficient to dislodge a judicial decree, which carries a presumption of validity.

13. It is also significant that mutation No.1080 on the basis of the said decree had already been entered on 25.01.1985, prior to the execution of the sale deeds. Although its formal sanction took place subsequently, the entry itself was sufficient to put a prudent purchaser on notice. It is well settled that a purchaser is expected to verify the latest revenue record before entering into a transaction. Reliance on outdated jamabandi entries cannot absolve a purchaser of the duty to make reasonable inquiries.

14. In the present case, as rightly found by the First Appellate Court, the defendants have failed to prove that they made any such inquiry. Even those defendants, who appeared as witnesses, did not depose that they had examined the revenue record or consulted the Patwari. In the absence of due diligence, the defendants cannot claim the protection of bona fide purchasers under Section 41 of the Transfer of Property Act, 1882.

15. Further, once it is held that Chunia had already divested himself of ownership rights by virtue of the decree dated 21.12.1984, he had no authority to execute the sale deeds in favour of the defendants.

Consequently, the said sale deeds cannot confer any valid title upon the defendants.

16. The findings recorded by the First Appellate Court are pure findings of fact based on proper appreciation of oral and documentary evidence. No perversity or misapplication of law has been pointed out so as to warrant interference under Section 100 CPC. No substantial question of law arises for consideration in the present appeal.

17. In view of the foregoing discussion, this Court finds that the First Appellate Court has rightly reversed the judgment of the trial Court and decreed the suit of the plaintiff.

18. Accordingly, the present Regular Second Appeal is dismissed as being devoid of any merit. The parties are left to bear their own costs. Pending application(s), if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

24.03.2026

Vivek/Jiten

Whether Speaking/reasoned
Whether reportable

Yes
No

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