

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

133

RSA-1223-2025 (O&M)

Date of decision: 09.04.2026

Payal

...Appellant(s)

Vs.

Ganesh Dass Chhabra and others

...Respondent(s)

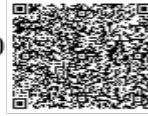
CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Harmanpreet Kaur, Advocate
for the appellant.

NIDHI GUPTA, J.

Plaintiff is in second appeal against the concurrent judgments and decrees of the learned District Courts, whereby suit filed by the appellant for possession, and declaration, with consequential relief of injunction, has been dismissed by both the District Courts.

2. Brief facts of the case are that the plaintiff had filed the instant Suit claiming that she is daughter of Ram Gopal. Performa defendant No. 8 is the 2nd daughter of Ram Gopal. Defendant No.1 is the grandfather of the plaintiff. Defendants No.2 to 7 are persons who have purchased the suit land from defendant no.1. It was pleaded that father of the plaintiff was owner in possession of agricultural land measuring 35K-9M. Father of the plaintiff had died on 08.07.1983. After his death, his wife, 2 daughters including the plaintiff and performa defendant No. 8 became the class -1 heirs of the suit property. It was alleged that defendant No.1 had fraudulently got the mutation No. 1192 dated



25.08.1985 sanctioned in his name. Thereafter, based on the said fraudulent mutation, defendant No.1 had further sold the land to defendants No.2 to 7 through various Sale Deeds/Lease Deeds. It was contended that the Sale Deeds/Lease Deeds are not binding on the rights and interest of the plaintiff and perma defendant No.8 and therefore are liable to be set aside. With these pleadings, present suit was filed on 03.01.2004.

3. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Senior Division), Hisar had dismissed the suit of the plaintiff vide judgment and decree dated 25.03.2011 in the following manner: -

“30. As per my findings on various issues above, I come to the conclusion that the plaintiff has failed to prove her case through cogent and convincing evidence, therefore, the suit of the plaintiff fails and is hereby dismissed. No order as to costs. Decree sheet be prepared accordingly. File be consigned to the record room, after due compliance”

4. The Civil Appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Hisar vide judgment and decree dated 22.11.2024. Hence, the present second appeal by the plaintiff.

5. It is *inter alia* submitted by learned counsel for the appellant that it is not disputed fact on record that the plaintiff and perma defendant No. 8 are the daughters of Ram Gopal. Defendant No.1 is the grandfather of the plaintiff and perma defendant No.8. It is submitted that at the time of death of Ram Gopal on 08.07.1983, plaintiff was only 4



years old and performa defendant No. 8 was only about 3 years old. Their mother was only about 30/32 years old. Ram Gopal had been living separately from his father as he had strained relations with his father i.e. defendant No.1. However, defendant No.1, being very clever person, had fraudulently and suppressingly got mutation of inheritance No. 1192 dated 25.08.1985 sanctioned in his name. It is submitted that he had got done the above fraudulent act on the basis of some oral "Will" which is said to be without any date. Even no notice as required was given to the appellant, mother of the appellant, or even performa defendant No.8. Nor any opportunity of hearing was granted before sanctioning of Mutation on the basis of alleged oral Will in favour of defendant No.1. It is contended that Ram Gopal, father of the plaintiff, had never executed any Will of his property nor any alleged Will was produced at the time of sanctioning of the said Mutation. It is further submitted that even defendant No.1 had not even disclosed the fact of execution of alleged Will nor was such a fact ever disclosed by Ram Gopal. It is submitted that appellant and performa defendant No.8 being class-1 heirs have lawful right over the estate of Ram Gopal. Therefore, suit of the plaintiff could not have been dismissed.

6. It is further submitted that after attaining majority in 1998, plaintiff came to know that defendant No.1, within a short span had sold/leased the total land measuring 35K-09M on the basis of false and frivolous Mutation No. 1192 which was got fraudulently sanctioned in his favour on 25.8.1985 and had transferred the land by respondent No.1 in



favour of respondents/defendants No. 2 to 7 in collusion with each other to jeopardize the rights of ownership of the plaintiff and proforma defendants.

7. It is submitted that appellant had made several requests to defendant No.1 to admit the rightful claim of the plaintiff and perform defendant No.8 however, to no avail.

8. It is accordingly prayed that present Appeal be allowed; and the impugned judgments and decrees of the learned District Courts be set aside.

9. I have heard learned counsel for the appellant and perused the case file in a great detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellant.

10. On a Court query, learned counsel for the appellant has admitted that appellant had attained majority in the year 1998. It is the own pleaded case of the appellant that she had discovered about impugned Sale Deed upon attaining majority in 1998 yet, suit has been filed by the appellant only on 03.01.2004. There is not even one word forthcoming in the entire record of the case explaining the delay of many years in filing the suit. As such, appellant deserves to be non-suited on this short ground itself.

11. A perusal of the record further reveals that both the District Courts have returned concurrent findings of fact that plaintiff has concealed material facts and has filed the suit in collusion with defendant No.1 to disentitle defendants No. 2 to 7. Although the plaintiff had alleged fraud and illegal Mutation on the basis of oral Will however, in the cross-

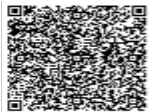


examination, plaintiff has admitted facts which directly support the defendants' case; thereby demolishing her own pleadings. Plaintiff has admitted in her cross-examination that:

- she lived with her grandparents and not with her parents;
- defendant No.1 has borne the expenses of education and marriage;
- she had never seen the suit land;
- she was ignorant about prior Agreement to Sell and Will dated 22.06.1983;
- she acknowledged possession of the suit land with Parwati.

12. From the above admissions, it is clear that plaintiff has admitted that version of the defendants was truthful; and that the case set up by her is incorrect. Besides that, plaintiff has also failed to prove any convincing evidence that the Will and Mutation are illegal, void or fraudulent. On the contrary, document Ex.P2 relied upon by the plaintiff supported the execution of the Will.

13. On the other hand, defendants had examined DW1 to DW5 to prove execution of Will; and sanctioning of Mutation No. 1192 based on the said Will. Furthermore, continuous Jamabandis from the year 1983-1984 till 2003-2004 reflected lawful ownership in favour of defendants No. 2 to 7 and subsequent purchasers. A perusal of Ex.D1 shows that Will in question was duly produced before the revenue authorities at the time of sanction of Mutation. The record further reveals that Harsha Rani, mother of the plaintiff was also very much present at the time of sanctioning Mutation No. 1192 dated 25.08.1985. Thus,



plaintiff miserably failed to prove that any fraud was played in the execution and sanctioning of Mutation No. 1192 dated 25.08.1985.

14. In any event, defendants No.2 to 7 are bonafide purchasers as admittedly, when property was purchased by them, revenue record, duly reflected the name of defendant No.1 as per the Will as well as Mutation No. 1192 dated 25.08.1985. Therefore, defendants had purchased the suit property after due care.

15. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

16. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned District Courts. The present Regular Second Appeal is hereby **dismissed**.

17. Pending applications, if any, stand disposed of.

09.04.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

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