IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-3712-2002(O&M) with
IOIN-1-RSA-3712-2002

BHOLI AND OTHERS

. . . . APPELLANTS

Vs.

SATYA DEVI AND OTHERS . . . . RESPONDENTS

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Reserved on: 20.04.2026
Pronounced on: 05.05.2026
Pronounced Fully/Operative Part: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. Ashish Aggarwal, Sr. Advocate, with
Mr. Vishal Pundir, Advocate, and
Mr. Raghav Sharma, Advocate, for the appellants

Mr. Akshay Kumar Jindal, Sr. Advocate, with
Mr. Yashvardhan Goyal, Advocate, for the respondent.

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DEEPAK GUPTA, J.

Background : The defendants of the case are before this Court in the present Regular Second Appeal assailing the concurrent findings recorded by both the Courts below, whereby the suit for possession by way of specific performance of agreement to sell dated 19.02.1992, instituted by the plaintiffs—Vaid Rameshwar Parsad and his son Dr. Satya Dev, was decreed by the learned trial Court vide judgment & decree dated 15.09.1998, and the appeal preferred by the defendants - appellants, namely Smt. Bholi and others, was dismissed by the learned District Judge, Kurukshetra on 27.08.2002.

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

3.1 ***Plaintiff's Case :*** The subject matter of dispute is House No. 551-P, Sector-13, Urban Estate, Kurukshetra. The case set up by the plaintiffs is that the defendants, being owners in possession of the suit property by virtue of sale deed dated 09.05.1991 (Ex.D1), agreed to sell the same to them vide agreement dated 19.02.1992 (Ex.P5) for total sale consideration of ₹3,00,000/-. A sum of ₹30,000/- was paid as earnest money, and the balance consideration was agreed to be paid on or before 15.02.1993 before the Sub-Registrar. The plaintiffs pleaded that they were always ready and willing to perform their part of the contract. They approached the defendants prior to the target date and remained present in the office of the Sub-Registrar on 15.02.1993 along with the balance sale consideration, but the defendants failed to turn up. Their presence was duly recorded by the Sub-Registrar.

3.2 It was further pleaded that despite service of legal notice dated 28.06.1993 calling upon the defendants to execute the sale deed on 03.08.1993, the defendants failed to perform their part. The plaintiffs again appeared before the Sub-Registrar on 04.08.1993, but the defendants abstained. Consequently, the suit for specific performance was filed on 07.12.1993, with an alternative prayer for recovery of double the earnest money along with interest.

4.1 ***Defendant's Stand :*** The defendants contested the suit by setting up a case of fraud and denial of execution of the agreement. Defendant No.1 pleaded that she had only borrowed ₹23,000/- on 22.02.1992, and subsequently ₹7,000/- on 16.03.1992 from the plaintiffs, and that her signatures had been obtained on blank papers, which were later converted into the alleged agreement to sell. She denied having executed any agreement and asserted that the document was forged and fabricated. It was further pleaded that she was an elderly lady of about 90 years and had no intention to sell her only residential house, whose market value was allegedly around ₹7,00,000/-.

4.2 Defendants No.2 and 3, daughters of defendant No.1, also supported the above version and claimed that they had signed documents only as witnesses to a loan transaction between plaintiffs and their mother.

5. In replication, the plaintiffs denied all allegations of fraud and reiterated the genuineness of the agreement. It was further pleaded that the defendants were fully aware and capable persons, and that additional amounts had also been advanced to them after execution of the agreement.

6. ***Evidence adduced by parties :*** On the basis of pleadings, issues were framed and both sides led evidence. The plaintiffs examined seven witnesses. The agreement to sell (Ex.P5) was proved through the scribe Ram Parkash Gulati (PW3) as well as one of the attesting witnesses Vishav Nath (PW4). The signatures of the second attesting witness Mahabir Singh Raghuvanshi, Advocate were proved through his clerk Ram Karan (PW5), as he had expired. Bank official Ram Singh (PW2) proved withdrawal of ₹30,000/- and ₹7,000/- corresponding to the amounts paid to the defendants. Documentary evidence also established service of legal notice and the plaintiffs' presence before the Sub-Registrar on the stipulated dates. Oral testimony further substantiated their readiness and willingness.

7. On the other hand, the defence rested solely on the testimony of defendant No.1. She reiterated her plea of loan transaction and denied execution of the agreement, but admitted her signatures on documents. Notably, defendants No.2 and 3, despite filing written statements, did not enter the witness box.

8. ***Findings of the Court below :*** Upon appreciation of the evidence, the learned trial Court held that the agreement to sell dated 19.02.1992 stood duly proved and that the plaintiffs had been ready and willing to perform their part of the contract. The plea of fraud was rejected for want of proof. Consequently, the suit was decreed, directing the defendants to execute and register the sale deed in favour of the plaintiffs upon receipt of the balance sale consideration.

9. The defendants carried the matter in appeal, but the learned First Appellate Court, upon re-appraisal of the entire evidence, affirmed the findings of the trial Court and dismissed the appeal.

10. ***Contentions of Appellants – Defendants :*** Assailing the concurrent findings, learned senior counsel for the appellants has argued that the Courts below failed to properly appreciate the evidence. It is contended that the property was purchased for a substantial amount and further expenditure was incurred on repairs, making it improbable that the defendants would agree to sell the property for ₹3,00,000/-. It is further argued that the agreement was a fabricated document created out of blank signed papers obtained under the guise of a loan transaction. Emphasis has also been laid on the plea of hardship, contending that the suit property is the only residential house of the defendants and that decree of specific performance would cause undue hardship. Reliance has been placed upon various judgments to contend that in such circumstances, relief of specific performance ought to be declined and instead compensation may be awarded.

11. ***Response by Respondents – Plaintiffs :*** *Per contra*, learned senior counsel for the respondents has supported the judgments of the Courts below, contending that execution of the agreement stands conclusively proved through reliable evidence. It is argued that the plea of fraud has remained unsubstantiated and is contradicted by the testimony of the defendants themselves. It is further submitted that the defendants deliberately withheld best evidence, as defendants No.2 and 3 did not enter the witness box. The plea of hardship is also stated to be untenable in the facts and circumstances of the case.

12. This Court has considered the rival submissions and examined the record.

13. ***Application for Amendment by appellants :*** Before adverting to the merits of the case, it is necessary to deal with an application moved by the appellants, being **CM-8417-C-2002**, filed under Order VI Rule 17 CPC seeking

amendment of the written statement on behalf of defendants No.2 and 3. By way of the proposed amendment, it was sought to be pleaded that at the time of filing the original written statement, the said defendants were not aware that the agreement to sell in question was allegedly fabricated and forged by the plaintiffs. It was asserted that their signatures, along with that of defendant No.1, had earlier been obtained on blank papers on the pretext of execution of pronotes as security for repayment of certain loan amounts allegedly advanced on 22.02.1992 and 16.03.1992, and that such blank signed papers were subsequently converted into the impugned agreement (Ex.P5). It was further sought to be pleaded that the said agreement was never executed by them on 19.02.1992, nor was it signed in their presence as an agreement to sell, and that their signatures had in fact been obtained subsequently on blank papers and even on blank pages of the deed writer's register. An additional plea was also proposed to the effect that the agreement was not signed by the plaintiffs (vendees), and therefore lacked the character of a valid bilateral contract.

14. The afore said application was vehemently opposed by the respondents-plaintiffs by filing a detailed reply. However, during the course of arguments before this Court, learned counsel for the appellants did not press the said application.

15. Even otherwise, on a consideration of the nature of the proposed amendments, this Court finds that the same seek to introduce an entirely new and inconsistent case, which is in clear contradiction to the stand originally taken in the written statement. The attempt appears to be a deliberate effort to withdraw admissions and alter the defence at a highly belated stage, i.e., in second appeal, after conclusion of trial and first appellate proceedings. Such amendments are impermissible in law, particularly in view of the proviso appended to Order VI Rule 17 CPC, which restricts amendments after commencement of trial unless due diligence is shown, an element conspicuously absent in the present case.

16. Accordingly, the application for amendment is wholly misconceived and is liable to be dismissed.

Analysis by this Court on Merits :

17. Coming to the merits of the appeal, it is evident from the record that the agreement to sell dated 19.02.1992 (Ex.P5) stands duly proved by the plaintiffs through cogent and reliable evidence. The plaintiffs examined the scribe as well as one of the attesting witnesses, both of whom categorically proved the execution of the agreement and the payment of earnest money of ₹30,000/-. The signatures of the second attesting witness were duly proved through his clerk. The documentary evidence, including bank records showing withdrawal of the amount on the very date of the agreement, lends further corroboration to the plaintiffs' case.

18. On the other hand, the defence rests solely on the testimony of defendant No.1, which has been rightly disbelieved by the Courts below. Her testimony is not only self-contradictory but also inconsistent with the stand taken in the written statement. Significantly, defendants No.2 and 3, who had filed separate written statements, failed to step into the witness box, thereby inviting an adverse inference. The findings recorded by the First Appellate Court on appreciation of evidence are thus well-founded and call for no interference.

19. ***Inadequacy of Consideration :*** The contention regarding inadequacy of sale consideration is equally devoid of merit. It is settled law that mere inadequacy of consideration cannot invalidate an agreement nor can it be a ground to refuse specific performance unless it is coupled with circumstances indicating fraud or unfair advantage. Reference in this regard may be made to ***K. Narendra v. Riviera Apartments (P) Ltd***., ***AIR 1999 SC 2309,*** wherein it has been held that mere inadequacy of consideration or the fact that the contract is onerous would not by itself constitute hardship or inequitable conduct.

20. ***Plea of Fraud :*** Similarly, the plea of fraud has rightly been rejected. Fraud, like any serious allegation, must be proved by cogent evidence and cannot rest on suspicion or conjecture. In ***Union of India v. M/s Chaturbhai M. Patel & Co.***, ***AIR 1976 Supreme Court 712,*** it was held by the Supreme Court that suspicion, however strong, cannot take the place of proof.

In the present case, the defendants have failed to establish even a prima facie case of fraud.

21. The mere fact that the plaintiffs had claimed, in the alternative, refund of double the earnest money as stipulated in the agreement does not, by itself, constitute a ground to decline the relief of specific performance. In ***Manzoor Ahmed Magray Vs. Gulam Hassan Aram AIR 2000 SC 191***, clause in contract provided that in case of violation of terms and conditions of agreement, plaintiff is entitled to recover damages. It was held by Hon'ble Supreme Court that it is a penalty clause only for the purpose of securing performance of contract and not for the purpose of giving an option of paying money in lieu of specific performance.

22. Likewise, the contention advanced on behalf of the appellants questioning the plaintiffs' readiness and willingness is untenable, particularly when the defendants themselves have taken a categorical stand denying the very execution of the agreement.

23. ***Plea w.r.t. Hardship, Long lapse of time and escalation in market value:*** The principal argument advanced by learned senior counsel for the appellants pertains to hardship, efflux of time, and escalation of prices, invoking the discretionary jurisdiction of the Court under Section 20 of the Specific Relief Act.

24. It is well settled that the relief of specific performance is discretionary, but such discretion is to be exercised on sound and judicial principles. In ***K. Narendra v. Riviera Apartments (P) Ltd*. *(supra)***, the Hon'ble Supreme Court held that comparative hardship is a relevant consideration; however, mere inadequacy of consideration or onerousness of the contract would not constitute hardship within the meaning of Section 20 of the Specific Relief Act, 1963.

25. Further, in ***Nanjappan v. Ramasamy and another***, ***2015 (2) RCR (Civil) 224 (SC),*** the Supreme Court emphasized that while exercising discretion, the Court must consider the totality of circumstances, including

conduct of the parties, nature of the property, and surrounding circumstances. In that case, relief was declined where the property was the sole residential house and substantial hardship was clearly established. However, the ratio of that is distinguishable, as in the present case no such cogent evidence of hardship has been led.

26. On the issue of delay and escalation of price, the legal position is no longer res integra. In ***Nirmala Anand v. Advent Corporation (P) Ltd***. and anohter, ***AIR 2002 SC 3396,*** it has been categorically held by the Hon'ble Supreme Court that mere escalation of prices during pendency of litigation is not a ground to deny specific performance. The Court, however, recognized that in appropriate cases, equities can be balanced by awarding additional compensation.

27. This principle has been reiterated in ***P. D'Souza v. Shondrilo Naidu***, ***AIR 2004 SC 4472***, wherein it was held that delay caused due to pendency of litigation cannot, by itself, be a ground to refuse specific performance, particularly when the plaintiff – vendee is not at fault.

28. Again, in ***P.S. Ranakrishna Reddy v. M.K. Bhagyalakshmi and another***, ***AIR 2007 SC 1256*** , the Supreme Court held that rise in price of immovable property is a normal phenomenon and cannot be treated as hardship warranting denial of specific performance.

29. The issue has been authoritatively settled in ***Satya Jain (deceased) through LRs and others v. Anis Ahmed Rushdie (deceased) through LRs and others, AIR 2013 SC 434***, wherein it was held as under :

> "27. The ultimate question that has now to be considered is whether the plaintiff should be held to be entitled to a decree for specific performance of the agreement of 22.12.1970. The long efflux of time (over 40 years) that has occurred and the galloping value of real estate in the meantime are the twin inhibiting factors in this regard. The same, however, have to be balanced with the fact that the plaintiffs are in no way responsible for the delay that has occurred and their keen participation in the proceedings till date show the live interest on the part of the plaintiffs to have the agreement enforced in law.

28. The discretion to direct specific performance of an agreement and that too after elapse of a long period of time, undoubtedly, has to be exercised on sound, reasonable, rational and acceptable principles. The parameters for the exercise of discretion vested by Section 20 of the Specific Relief Act, 1963 cannot be entrapped within any precise expression of language and the contours thereof will always depend on the facts and circumstances of each case. The ultimate guiding test would be the principles of fairness and reasonableness as may be dictated by the peculiar facts of any given case, which features the experienced judicial mind can perceive without any real difficulty. It must however be emphasized that efflux of time and escalation of price of property, by itself, cannot be a valid ground to deny the relief of specific performance. Such a view has been consistently adopted by this Court. By way of illustration opinions rendered in ***P.S. Ranakrishna Reddy v. M.K. Bhagyalakshmi***[14] and more recently in ***Narinderjit Singh v. North Star Estate Promoters Ltd.***[15] may be usefully recapitulated.

29. The twin inhibiting factors identified above if are to be read as a bar to the grant of a decree of specific performance would amount to penalizing the plaintiffs for no fault on their part; to deny them the real fruits of a protracted litigation wherein the issues arising are being answered in their favour. From another perspective it may also indicate the inadequacies of the law to deal with the long delays that, at times, occur while rendering the final verdict in a given case. The aforesaid two features, at best, may justify award of additional compensation to the vendor by grant of a price higher than what had been stipulated in the agreement which price, in a given case, may even be the market price as on date of the order of the final Court."

30. Thus, efflux of time and escalation of property prices, though relevant considerations, cannot by themselves constitute grounds to deny relief. The Supreme Court emphasized that denying relief on such grounds would amount to penalizing the plaintiff for no fault and rewarding the defaulting defendant.

31. Similarly, in ***K. Prakash v. B.R. Sampath Kumar***, ***AIR 2015 SC 9,*** it has been held that subsequent rise in price is a normal change of circumstances

and cannot be treated as hardship; however, Courts may impose reasonable conditions to balance equities.

32. Further, in ***Zarina Siddiqui v. A. Ramalingam @ P. Amarnathan*, *AIR 2015 SC 580,*** it was reiterated that the conduct of the parties plays a crucial role in the exercise of discretion. A party, who does not come to Court with clean hands or who attempts to mislead the Court is not entitled to equitable relief.

33. Thus, the Legal principles, which can be culled out from the above cited authorities, are as under:

- Mere inadequacy of consideration or the mere fact that the contract is onerous to the defendant or improvident in its nature, shall not constitute an unfair advantage to the plaintiff over the defendant or unforeseeable hardship on the defendant. ***[K. Narendra Vs. Riviera Apartments (P) Ltd (supra)]***
- The court would take into consideration circumstances of each case, conduct of the parties, recitals in the sale agreement and the circumstances outside the contract have to be seen. ***[Nanjappan Vs. Ramasamy (supra)]***
- It is further well settled that the court in its discretion can impose any reasonable condition including payment of an additional amount by one party to the other while granting or refusing decree for specific performance. Whether the purchaser shall be directed to pay an additional amount to the seller or converse would depend upon the facts and circumstances of a case. ***[Nirmala Anand's case (supra)]***
- Ordinarily, the plaintiff is not to be denied the relief of specific performance only on account of the phenomenal increase or price during the pendency of litigation. ***[Nirmala Anand's case (supra).***
- Rise in price is a normal change of circumstances and, therefore, on that ground a decree for specific performance cannot be reversed, though court while granting decree for specific performance can impose such condition, which may to some extent compensate the defendant-owner of the property***. [K. Prakash Vs. B. R. Sampath Kumar (supra)]***
- While balancing the equities, one of the consideration to be kept in view is as to who is the defaulting party. ***[Nirmala Anand's case (supra)]***

- Explanation 1 appended to Section 20 of the Specific Relief Act, clearly stipulates that mere inadequacy of consideration or the mere fact that contract is onerous to the defendant or improvident in its nature would not constitute an unfair advantage within the meaning of sub-section (2) of Section 20.
- However, delay in performance of contract due to pendency of proceedings in Court cannot by itself be a ground to refuse relief of specific performance in absence of any compelling circumstances to take contrary view. ***[D'Souza Vs. Shondrilo Naidu (supra)]***
- The escalation of price of the real estate ***[Govind Ram v. Gian Chand (2000) 7 S.C.C. 548];*** inadequacy of consideration or the mere fact that the contract is onerous to the defendant or improvident in its nature ***'K. Narendra v. Riviera Apartments P. Ltd. (supra)*** and ***'Sargunam (Dead) by LRs. v. Chidambaram (2005) 1 S.C.C. 162',*** have not been considered as sufficient grounds to decline the decree for the specific performance of the agreement."

34. Applying the aforesaid principles to the facts of the present case, it is evident that:

- the defendants – appellants have failed to plead and prove any specific or unforeseen hardship;
- the plea of escalation of price is a natural consequence of time and cannot be treated as a ground to deny relief;
- the plaintiffs have consistently demonstrated readiness and willingness;
- the delay in execution is attributable to the conduct of the defendants and pendency of litigation.

35. Thus, the defendants, being in breach of the contract, cannot be permitted to take advantage of their own wrong by invoking the equitable jurisdiction of the Court.

36. At the same time, as recognized in ***Nirmala Anand (supra)*** and ***K. Prakash (supra)***, the Court is empowered to balance equities by awarding

additional compensation, where warranted by passage of time and surrounding circumstances.

37. ***Conclusion :*** Accordingly, while dismissing the appeal in the absence of any ground to interfere with the concurrent findings recorded by the Courts below and affirming the decree for specific performance, this Court deems it just and equitable to balance the equities between the parties, having regard to the fact that more than 34 years have elapsed since the date of agreement and 24 years since the filing of the appeal and that the value of urban property would have considerably escalated during this period.

38. Accordingly, it is directed that the appellants-defendants shall execute and get registered the sale deed in favour of the respondents-plaintiffs upon receipt of the balance sale consideration of ₹2,70,000/-, along with an additional sum of ₹50,00,000/- (Rupees Fifty Lakh) as compensation. The expenses towards execution and registration of the sale deed shall also be borne by the defendants.

39. The aforesaid amounts shall be paid by the plaintiffs-respondents within a period of three months from the date of this judgment. In the event the appellants-defendants refuse to accept the said amount, the plaintiffs shall be at liberty to deposit the entire amount before the Executing Court, which shall thereafter proceed in accordance with law to have the sale deed executed in favour of the plaintiffs.

40. Appeal is disposed of in above terms, leaving the parties to bear their own costs. Misc. application, if any, stands disposed of.

(DEEPAK GUPTA)
JUDGE

05.05.2026
Vivek

Whether Speaking/reasoned *Yes*
Whether reportable *No*

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