



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

RSA-885-2026

Date of decision : 11.03.2026

RAKESH MAHAJAN AND OTHERS

... APPELLANTS

VERSUS

NARINDER SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Charanpal Singh Bagri, Advocate
for the appellants.

PARMOD GOYAL, J.

Present regular second appeal has been preferred by unsuccessful appellants/plaintiffs being aggrieved by dismissal of their suit for declaration vide judgment and decree dated 01.08.2019, passed by learned Civil Judge, Junior Division, Phagwara and also by dismissal of their first appeal vide judgment and decree dated 19.11.2024, passed by learned Additional District Judge, Kapurthala.

2. Appellants/plaintiffs in their suit for declaration had asserted that respondents/defendants No.1 and 2 appointed Mohan Singh-father of defendants No.3 to 6 as attorney who was uncle of respondents/defendants No.1 and 2. Mohan Singh sold land measuring 2 kanals 13 marlas as described in the plaint situated at Village Nangal, Tehsil Phagwara and had put respondents/defendants No.7 to 9 in possession of property sold to them. Appellants/plaintiffs and respondent/defendant No.10 purchased property from respondents/defendants No.7 to 9 and had stepped into their shoes. That

appellants/plaintiffs and respondents/defendants No.10 and 11 recently came to know that respondents/defendants No.1 and 2 had filed a suit No.243 dated 07.10.1998 challenging the validity of sale deeds No.1817 and 1818 both dated 03.11.1993 executed by Mohan Singh being their attorney and had also sought possession of land measuring 5 kanals 6 marlas, restraining respondents/defendants No.7 to 9 from alienating or transferring or creating any charge over the land. After succeeding in their suit respondents/defendants No.1 and 2 had filed an execution of land measuring 5 kanals 6 marlas impleading present respondents/defendants No.3 to 9 as JDs. It is asserted that respondents/defendants No.3 to 6 are sons of Mohan Singh deceased JD No.1. That appellants/plaintiffs made inquiries and came to know that in the month of May 2014 that initially suit filed by respondents/defendants No.1 and 2 was dismissed by learned Civil Judge (Junior Division), Phagwara vide judgment and decree dated 29.08.2001 in Suit No.243 of 07.10.1998 preferred by respondents/defendants No.1 and 2. Against judgment and decree dated 29.08.2001, respondents/defendants No.1 and 2 had filed an appeal which was accepted by judgment and decree dated 19.08.2003 and it was held that attorney Mohan Singh had no right to sell the property and sale deeds dated 03.11.1993 were set aside. The said finding recorded by learned First Appellate Court was affirmed vide judgment dated 10.02.2006, passed by this High Court in RSA No.4664 of 2003 and further SLP No.9272 of 2006 was also dismissed on 05.07.2006. On issuance of warrant of possession, previous litigation came to the notice of appellants/plaintiffs. It is asserted that respondents/defendants No.1 and 2 were always aware about the fact that property stands transferred in the name of present appellants/plaintiffs prior to

filing of their suit. It is asserted that it is appellants/plaintiffs who have raised construction over the suit property and are in peaceful possession of the suit property. It is asserted that no decree has been passed regarding physical possession and only sale deed in favour of respondents/defendants No.7 to 9 have been set aside which were out of joint land. The warrant of possession of joint area has been implemented in revenue records vide Rapat No.757 of 06.08.2012 as such decree stands fully satisfied. It is asserted that appellants/plaintiffs and respondents/defendants No.10 and 11 are *bona fide* purchasers without knowledge of any litigation and were not parties to the previous litigation initiated by respondents/defendants No.1 and 2. Accordingly, judgment and decree dated 19.08.2003, passed by learned First Appellate Court in favour of respondents/defendants No.1 and 2 is not binding upon the rights of appellants/plaintiffs. Accordingly, suit for declaration that judgment and decree dated 19.08.2003 is not binding on the rights of appellants/plaintiffs was preferred.

3. Respondents/defendants No.1 and 2 had contested the suit by taking number of preliminary objections with regard to maintainability. On merits it was asserted that respondent/defendant No.2 had executed power of attorney in favour of respondent/defendant No.1-Narinder Singh and he being attorney of respondent/defendant No.2 executed power of attorney in favour of Mohan Singh son of Tulsa Singh. The said attorney was to divide the joint land in three equal parts, however, power of attorney exceeded his authority and had sold the land illegally to respondents/defendants No.7 to 9. Accordingly, respondents/defendants No.1 and 2 had filed a suit titled as ‘Narinder Singh Vs. Mohan Singh & Ors.’ which was duly decreed by learned First Appellate

Court and was upheld by this High Court and Hon'ble Supreme Court. Accordingly, revenue authorities had set aside Mutation Nos.1379, 1380, 1401, 1517, 1520, 1521, 1540, 1564, 1669 and 1673 after cancelling sale deeds No.912, 1242, 1241, 3926, 3820, 1120, 329, 1817, 1818 and 221. It is also asserted that possession of land has been implemented and as such decree stands fully satisfied. Dismissal of suit was prayed for. Respondents/defendants No.3 to 6 also challenged maintainability of suit and prayed for dismissal of suit.

4. Following issues were framed from the pleadings of parties :-

- (i) Whether the plaintiffs are entitled for declaration as prayed for? OPP
- (ii) Whether the plaintiffs are entitled for the relief of permanent injunction, as prayed for? OPP
- (iii) Whether the suit is not maintainable in the present form? OPD
- (iv) Whether the plaintiff has got no locus-standi or cause of action to file the present suit? OPD
- (v) Whether the plaintiff has concealed the true and material facts from the Hon'ble Court, if yes, its effect? OPD
- (vi) Relief.

5. Both the Courts below decided issues No.1 and 2 in favour of respondents/defendants and against appellants/plaintiffs and issues No.3 to 5 were decided against respondents/defendants being not pressed, accordingly, suit and first appeal both were dismissed by Court of First Instance and First Appellate Court.

6. Facts in the present case are not in dispute. Admittedly, respondents/defendants No.1 and 2 are owners of suit property and had

executed power of attorney in favour of Mohan Singh who is being represented through his LRs respondents/defendants No.3 to 6. Mohan Singh misusing the said power of attorney executed sale deeds No.1817 and 1818 both dated 03.11.1993 which were challenged by filing Suit No.243 dated 07.10.1998. The suit preferred by respondents/defendants No.1 and 2 was dismissed by the Court of first instance vide judgment and decree dated 29.08.2001. Aggrieved by dismissal of their suit respondents/defendants No.1 and 2 filed first appeal bearing No.686 dated 03.10.2001. The said appeal was accepted by learned First Appellate Court and the suit was accordingly decreed. The findings of learned First Appellate Court were further affirmed by this Court vide its judgment dated 10.02.2006 in RSA No.4664 of 2003. Even the SLP No.9272 of 2006 dated 05.07.2006 against judgment passed by learned First Appellate Court and High Court could not succeed and was dismissed by Hon'ble Supreme Court.

7. As far as authority to sell land by Mohan Singh under power of attorney issued by respondents/defendants No.1 and 2 is concerned, same has attained finality and it is clearly made out that Mohan Singh had no authority to execute sale deeds by virtue of power of attorney executed in his favour. Once it is held that Mohan Singh had no authority to execute the sale deeds, the title of land owned by respondents/defendants No.1 and 2 can never vest in the subsequent purchaser. Therefore, the subsequent purchaser or vendors of present appellants/plaintiffs i.e. respondents/defendants No.7 to 9 who were also party to previous litigation were held having no title or right over the suit property.

8. Present appellants/plaintiffs are claiming their rights through respondents/defendants No.7 to 9 from whom they had purchased the suit property. Learned counsel for appellants/plaintiffs has contended that previous suit was result of fraud and fabrication and there was a collusion between respondents/defendants No.1 and 2 and said Mohan Singh who happen to be real uncle of respondents/defendants No.1 and 2. Reliance has been placed upon the following judgments in support of the arguments raised by learned counsel for appellants/plaintiffs :-

- (i) **Odisha State Financial Corporation Vs. Vigyan Chemical Industries & Ors., 2025 (5) MLJ 253;**
- (ii) **Vishnu Vardhan @ Vishnu Pradhan Vs. The State of Uttar Pradesh & Ors., 2025 (2) PLR 189.**

9. The ratio stated in above noted judgments is not in doubt. Where judgment and decree is *void ab initio* and is shown to be result of fraud and fabrication, the same can very well be challenged by the parties so aggrieved. However, in present case except for oral assertions that judgment and decree passed by learned First Appellate Court dated 19.08.2003 in favour of respondents/defendants No.1 and 2 was result of fraud and fabrication, no material evidence has been placed before this Court to accept contention raised on behalf of appellants. Merely because Mohan Singh was uncle of respondents/defendants No.1 and 2 would not be sufficient to show collusion between said Mohan Singh and respondents/defendants No.1 and 2. In fact, appellants in their plaint have not pleaded that judgment and decree dated 19.08.2003 was result of fraud, forgery or fabrication.

10. In absence of any evidence regarding collusion between Mohan Singh and respondents/defendants No.1 and 2 and that judgment and decree was obtained by way of fraud, fabrication or misrepresentation it is not open for appellants/plaintiffs to challenge the judgment and decree dated 19.08.2003 which has since attained finality. In view of judgment dated 10.02.2006, passed by Punjab and Haryana High Court and judgment dated 05.07.2006, passed by Hon’ble Supreme Court, the rights of parties stands crystallized by judgment and decree dated 19.08.2003. Since vendor of appellants/plaintiffs have no right over the suit property, they could not have passed any right to appellants/plaintiffs by sale deed subsequently executed in 1998 in favour of appellants/plaintiffs. No other question of law and fact has been raised. Present regular second appeal is without any merit, hence is dismissed.

11. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

11.03.2026
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No