



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

204

RSA-52-1998(O&M)
Date of decision:10.02.2026

Tej Ram (since deceased) through L.Rs.

...Appellant

Versus

Jeet Singh and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. B.R. Rana, Advocate
for appellant.

Mr. Brijesh Kumar Jangra, Advocate
for respondent Nos.1 to 3.

PARMOD GOYAL, J.

Appellant-plaintiff has preferred regular second appeal being aggrieved by dismissal of his suit for declaration and permanent injunction vide judgment and decree dated 21.08.1995 passed by the Court of learned Sub Judge 1st Class, Palwal as well as dismissal of his first appeal vide judgment and decree dated 01.09.1997 passed by learned Additional District Judge Faridabad.

2. Appellant-plaintiff in his suit for declaration and permanent injunction claimed himself to be owner in possession of land measuring 68 kanals 01 marla fully detailed in plaint. It was the case of appellant-plaintiff that he had never relinquished his right, title or interest in favour of any person, however, defendants, by playing fraud upon him as well as Court, obtained frivolous decree dated 03.12.1985 in Suit No.192 dated 15.05.1984. It is asserted that that during pendency of suit, defendant Nos.1 to 3 had leased out the suit land in favour of defendant Nos.4 and 5 by

registered lease deed dated 26.06.1989 for 99 years and mutation No.366 in this regard was sanctioned on 18.10.1989. Appellant-plaintiff had also sought declaration that lease deed and mutation are illegal, null and void, inoperative and not binding on his rights. It was asserted that appellant-plaintiff was an illiterate person having feeble health and was suffering from many diseases; defendants took appellant-plaintiff under their undue influence by telling that Government was disbursing loan and on the pretext of getting him loan, took him to Faridabad, obtained his thumb impressions on many blank papers. It was informed by defendants to appellant-plaintiff that he will get loan at Palwal and was made to sit outside the Tehsil compound awaiting for disbursement of loan for many days. Thumb marks of appellant-plaintiff were taken on blank papers and he was never read over or explained about any document. Appellant-plaintiff specifically asserted that neither any lawyer was engaged by him nor any statement was made in the Court. He accordingly prayed that his suit be decreed.

3. Defendants in their written statement asserted that suit has been filed against defendant No.2, who had died 7-8 years prior to filing of suit and therefore suit against him is not maintainable. It was asserted that Suit No.192 of 1984 was regarding sale of suit land on payment of Rs.20,000/-, out of which Rs.13,000/- was paid against receipt executed by plaintiff. Thereafter, remaining amount of Rs.7,000/- was paid when suit No.192 of 1984 was decreed. It was asserted that Civil Suit No.192 of 1984 was rightly decreed in favour of defendants by the Court on 03.12.1985. It was further asserted that earlier Suit No.629 was filed by the son of appellant-plaintiff, however, when the case came at the stage of final decision, son of appellant-

plaintiff withdrew said suit on 09.09.1988 and now appellant-plaintiff has filed present suit. Dismissal of suit was prayed for.

4. From the pleadings of the parties, following issues were framed:

- i. Whether the plaintiff is owner in possession of the suit property mentioned in para No.1 of the plaint? OPP
- ii. Whether the decree dated 03.12.1985 in suit no.192 of 1984 is illegal, null and void as alleged? OPP
- iii. Whether the decree dated 03.12.1985 suffers from legal infirmities? OPP
- iv. Whether the plaintiff is entitled for the relief prayed for? OPP
- v. Whether the suit is not maintainable in the present form? OPD
- vi. Whether the suit is barred by provisions of Order 23 Rule 3 CPC? OPD
- vii. Whether the plaintiff has no cause of action to file the present suit? OPD
- viii. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD
- ix. Whether the suit is barred by principle of res judicata and by provisions of Order 2 Rule 2 CPC? OPD
- x. Whether the plaintiff has no locus standi to file the present suit? OPD
- xi. Whether the defendants are entitled to special costs to the tune of Rs. 2,000 under Section 35(a) CPC? OPD
- xii. Relief.

5. Both the Courts below have concurrently found that judgment

and decree dated 03.12.1985 passed in Civil Suit No.192 of 1984 was passed

in accordance with the law. To prove his case, appellant-plaintiff himself appeared as PW7 and reiterated his case, as stated in paragraph 4(b) of plaint, that he was taken to Ballabgarh on the pretext of advancement of loan, his signatures/thumb impressions were taken on blank papers, he never appeared in any Court for making any statement and that he had not engaged any lawyer. The oral assertions made by appellant-plaintiff are further supported by PW3-Chandi and PW4-Devi Singh. On the other hand, defendant No.1 appeared as DW4 and asserted that suit property was purchased by him from appellant-plaintiff on payment of Rs.20,000/- against a writing executed between them. It was further claimed that amount of Rs.13,000/- was given vide receipt Ex.D-2, duly thumb marked by appellant-plaintiff and also witnessed by attesting witnesses which was further confirmed by appellant-plaintiff vide his affidavit Ex.D-1.

6. That upon filing of Civil Suit No.192 of 1984, appellant-plaintiff filed admitted written statement, suffered statement in Court admitting case of defendants and after getting Rs.7,000/- more accepted the claim of plaintiffs and suit was decreed. It was asserted that appellant-plaintiff was Lambardar of village and well aware about proceedings of sale and purchase and Court proceedings. DW4 had also asserted that earlier son of Tej Ram had filed a suit which was dismissed as withdrawn.

7. Sh. T.C. Kausik, Advocate who had attested the affidavit of appellant-plaintiff was examined by defendants as DW1. DW-1 had duly proved execution of Ex.D1-affidavit by appellant-plaintiff-Tej Ram. DW-1 duly asserted that appellant-plaintif had put his thumb impressions after the same was read over to him accepting same to be correct. DW-2-R.P. Sharma,

Advocate who represented Tej Ram in Civil Suit No.192 of 1984 was examined and had duly proved filing of Ex.DW2/1-written statement. DW-2 also proved that it was appellant-plaintiff who had put his thumb impression after admitting same to be correct. DW2 further stated that statement of appellant-plaintiff-Tej Ram was also recorded in Court and he had identified him before the Court. DW2 also proved power of attorney filed in Court which was also stated to be thumb marked by appellant-plaintiff. The attesting witness of agreement which was basis of Suit No.192 of 1984 namely Latkan Singh appeared as DW-3 and proved due execution of agreement, Ex.DW-3/1. DW3 also stated that Tejram had duly executed said agreement in favor of Arjun Singh and Jeet Singh against earnest money of Rs.13,000/- and same were duly received by plaintiff.

8. Learned Courts below have rightly appreciated the evidence led by both the sides. Appellant-plaintiff had simply denied having signed/thumb marking agreement, written statement, vakalatnama, having engaged the counsel and even his statement before the Court. Self-serving and oral statements by PW-3 and PW-4 are also totally uncorroborated and are self-serving assertions made in favor of appellant-plaintiff. Defendants have led independent witnesses i.e. advocate as well as attesting witnesses of agreement. Affidavit-Ex.D-1 executed by appellant-plaintiff-Tejram in presence of PW-1 was duly proved by DW-1. DW-2 had duly proved thumb mark on written statement as well as thumb mark on power of attorney in his favour by appellant-plaintiff. DW-2 had also stated that appellant-plaintiff duly appeared in the Court and had made statement admitting claim of defendants. The evidence of DW2 has gone un-rebutted and unchallenged.

Nothing could be shown from cross-examination of DW-2 as to doubt his testimony. Furthermore, even the agreement which was subject matter of Civil Suit No.192 of 1984 stands duly proved by DW3 who happens to be attesting witness of the same.

9. Both the Courts below have rightly noticed that the self-serving evidence of appellant-plaintiff, on one hand, is not sufficient to rebut cogent and trustworthy evidence led by defendants duly proving execution of agreement on receipt of Rs.13,000/- vide Ex.D-2, affidavit Ex.D-1 executed by appellant-plaintiff in favour of defendants, admitted written statement, power of attorney in the Court in favour of DW2, and also statement of appellant-plaintiff before the Court. There is no rebuttal to these facts.

10. It is the case of appellant-plaintiff that he had never appeared in the Court, therefore, he could have duly disproved the case of defendants by examining handwriting experts by getting his thumb impressions compared with thumb impressions on written statement, vakalatnama as well as statement recorded before the Court in Civil Suit No.192 of 1984. However, no such evidence was led by appellant-plaintiff. Appellant-plaintiff has never made any complaint of any fraud or forgery against the defendants before the police. If the evidence led by defendants coupled with conduct of appellant-plaintiff is appreciated, in the facts and circumstances of the case, no other conclusion as drawn by learned Courts below can be arrived at. Both the Courts below have rightly held that it is appellant-plaintiff who has failed to make out a case showing that decree dated 03.12.1985 was outcome of fraud or misrepresentation.

11. It is worth noticing that learned Courts below have also taken in consideration case put across by son of appellant-plaintiff at the time of filing Civil Suit No.629 of 1986, wherein son of appellant-plaintiff namely, Ram Gopal had claimed that statement of appellant-plaintiff was recorded by mis-guiding appellant-plaintiff in the Court of Sh. Rajendra Prashad, the then Subordinate Judge, First Class, Palwal. This fact pleaded by son of appellant plaintiff, who was impleaded as defendant No.4 in said suit was never controverted by present appellant-plaintiff and is against stand taken by him that he had never visited the Court.

12. Concurrent finding of facts is based on correct appreciation of evidence on record. No question of fact or law arises in favour of appellant-plaintiff. Appeal is dismissed being without any merit.

13. Pending applications, if any, stands disposed of.

(PARMOD GOYAL)
JUDGE

10.02.2026
Sunil Chander

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