

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****119****RSA-1618-2023 (O&M)****Date of decision: 07.04.2026****Manpreet Singh****...Appellant(s)****Vs.****Darshan Singh****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Aseem Sharma, Advocate for the appellant.

NIDHI GUPTA, J.

Defendant No.3 is in second appeal against the concurrent judgments and decrees of the learned District Courts, whereby the suit filed by the plaintiff/respondent No.1 herein for possession by way of specific performance of Agreement to Sell dated 10.03.2005, has been decreed by both the District Courts.

2. Brief facts of the case are that the plaintiff had filed a Suit for possession of the suit land total measuring 45K-8M as described in the plaint "*.....by way of specific performance of contract/agreement of sell 'dated 10-03-05 executed by the defendants no. 1 & 2 in favour of plaintiff with regard to the property mentioned at letter 'X' below on payment of Rs. 14,54,095/-, the balance amount of the sale consideration or any other sum found due and stamps, registration and other allied and incidental expenses through execution and registration of sale deed alongwith all rights therein, after clearing all charges and encumbrances, if any, over*



*the suit property in question and for declaration to the effect that the sale deeds dated and registered on 12-01-06 vide Vasiqa no. 4448 & sale deed dated and registered on 12-01-06 vide Vasiqa no. 4449 alleged to have been executed by the defendants no. 1 & 2 in favour of defendant no. 3 are illegal, null and void and same are result of fraud, misrepresentation and collusion with each others with malafide intention just to defraud the plaintiff and same are without consideration and are liable to be set aside; **AND** for permanent injunction restraining the defendant no. 3, his servants and agents from alienating the suit property by way of sale, mortgage, gift, exchange etc. illegally, forcibly or in any other manner.”*

3. It was the pleaded case of the plaintiff that defendants No.1 and 2 are owners in possession of suit land as described in the plaint. Defendants No.1 and 2 had entered into an Agreement to sell dated 10.03.2005 with the plaintiff for sale of suit land measuring 45K-8M for total sale consideration of R.3,95,000/- per acre. Defendants No.1 and 2 had received earnest amount of Rs.25,000/- in the presence of attesting witnesses of the Agreement. The target date for registration of Sale Deed was fixed on or before 11.11.2005. It was contended that plaintiff had remained ready and willing to perform his part of contract; and had accordingly gone before the Sub Registrar on 11.11.2005 with balance sale consideration. However, defendants No.1 and 2 had failed to appear. Plaintiff got Affidavit attested from Sub Registrar to mark his presence. Plaintiff had later discovered that defendants No.1 and 2 had executed the



impugned Sale Deed dated 12.01.2006 in favour of defendant No.3 to defraud the plaintiff. Hence, present suit was filed in the year 2013.

4. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Fatehgarh Sahib had decreed the suit of the plaintiff vide judgment and decree dated 02.07.2015 in the following manner: -

“19-In view of the findings of this court on the issues no. 1 to 10 (supra), the suit of the plaintiff for specific performance of the agreement to sell dated 10.03.05 is hereby decreed to the effect that the plaintiff is entitled to a decree of specific performance of the agreement to sell dated 10.03.2005 and the sale deeds bearing Vasika no. 4448 and 4449 registered on 12.01.06 are hereby declared as illegal, null and void and are thus set aside as well as the relief of permanent injunction restraining the defendant no. 3 from alienating the suit property is granted. Decree sheet be prepared accordingly and file be consigned to the Judicial Record Room after due compliance.”

5. The Civil Appeal filed by the appellant/defendant No.3 was dismissed by the District Judge, Fatehgarh Sahib vide judgment and decree dated 18.04.2022. Hence, the present second appeal by defendant No.3.

6. It is *inter alia* submitted by learned counsel for the appellant that in passing the impugned judgments and decrees, the learned District Courts have failed to realize that the alleged Agreement to Sell is surrounded by suspicious circumstances. The District Courts have not appreciated that the said alleged Agreement is not scribed on regular stamp



papers but has only been scribed on printed stamp papers of Rs.5 each by affixing stamps on the same. Even stamp vendor has not been examined.

7. Further, suit property is situated in District Fatehgarh Sahib where number of regular Deed Writers are available however, the alleged Agreement to Sell had been got scribed in Khanna and that too not from the Regular Deed Writer. Even further, it is settled law that the Scribe must put his signature on the document scribed by him; but in the present case, no such signatures of Scribe was on the alleged Agreement to Sell. Even the name and signatures of the Scribe are not mentioned in the Agreement to Sell which cast shadow of doubt. Even no independent witness has been examined from the place where the vendor resides or where the property is situated. Both the alleged witnesses of the Agreement to Sell are relatives of the plaintiff/respondent no.1. Therefore, they are not the independent witnesses. Further, for total sale consideration of Rs.22,41,625/-, only meagre amount of Rs.25,000/- was paid as earnest money. The agreement in question is silent on various important aspects of the matter. As such, the same could not have been upheld.

8. On the other hand, appellant is a bonafide purchaser of the suit property. In the present case, as the seller remained exparte then the appellant being bonafide purchaser, had every right to challenge the validity as well as the execution of Agreement to Sell; and also lay challenge regarding the readiness and willingness of the purchaser. However, District Courts have passed the decree in haste without considering the said aspect of the matter.



9. It is further submitted by learned counsel for the appellant that the Ld. District Courts have wrongly held that execution of Agreement to sell is proved by the plaintiff. Whereas contrary has been proved on record. The plaintiff as PW1 and Labh Singh the alleged witness of the alleged agreement to sell in question as PW2 has stated in his affidavit that the alleged scribe read over and explained the contents of the agreement to Sukhwinder Singh and Surjeet Kaur in the presence of Marginal witnesses and they after admitting the same signed and thumb marked respectively upon the same. As per version of the plaintiff the alleged agreement was scribed at Tehsil Complex Khanna from a typist although there was availability of regular scribe who maintained registers for entering scribed Documents. Whereas the alleged typist appearing as DW-5 in criminal case whose statement is exhibited as EX-09 admitted that Kamaljeet Kaur, Surjeet Kaur and the witnesses of the alleged agreement to sell were not present at the time of the scribing of the agreement in question and no earnest money has been paid either of the party in my presence at the time of the agreement to sell.

10. Learned counsel for the appellant submits that furthermore PW-1 Labh Singh admitted in his cross examination that the payment was made at the residence and agreement was already executed and he further admitted no money was paid to the land owners at the time of writing of EX-P1 voluntarily said that the money was given next day meaning thereby that the agreement Ex-P1 is without consideration.

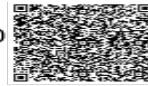


11. It is further submitted by learned counsel that the typist is to maintain the register once typist is scribing the documents and in the present case the scribe of the document in his cross-examination states that the register got lost and he filed a complaint regarding the same.

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

13. 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.

14. Perusal of the record of the case shows that plaintiff had duly proved the Agreement to Sell dated 10.03.2005 Ex.P1 by examining PW2 Labh Singh attesting witness; PW4 Harmel Singh Deed Writer, who both had deposed regarding the Agreement to Sell. Both PW2 and PW4 had deposed to the effect that contents of the Agreement were read over to the defendants in their presence and after admitting the same to be correct, vendees i.e. defendants No.1 and 2 had affixed their signatures upon the same. PW4 has further stated that on 10.03.2005, plaintiff and defendant No.1 had come to ask for typing of Agreement to Sell; and defendant No.1 Sukhwinder Singh had bought stamp papers of Rs.300 for scribing of the Agreement. PW4 has categorically stated that at the time of typing of Agreement to Sell, defendant No.1/Sukhwinder Singh was very much present. Signatures of the vendors i.e. defendants No.1 and 2 had not been denied. There is no reason whatsoever on record as to why



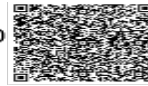
these witnesses would depose falsely in respect of defendants No.1 and 2.

The evidence of PW5 Ranbir Singh, Stamp Vendor had further fortified the case of the plaintiff. PW5 has also deposed that Sukhwinder Singh/defendant No.1 had bought the stamp papers. Perusal of the original Agreement to Sell Ex.P1 also reveals that stamp papers have been purchased by defendant No.1 himself. Payment of earnest amount of Rs.25,000/- on 10.03.2005 stands established from the fact that defendants No.1 and 2 have admitted their signatures upon Agreement Ex.P1.

15. Further, readiness and willingness of the plaintiff is proved from the Affidavit of Attendance Ex.P7/A showing his presence before the Sub Registrar on 11.05.2005 alongwith balance sale consideration. The said Affidavit of the plaintiff has been duly attested by Sub Registrar.

16. PW6 Sukhwinder Singh, Registration Clerk, had duly deposed that he had brought the record and as per entry at Sr. No. 134 dated 11.11.2005, presence of the plaintiff/ Darshan Singh is marked on record.

17. Plaintiff had also demonstrated availability of balance sale consideration by way of copy of Bank Drafts Ex.P4 and Ex.P5; audit vouchers Ex.P2 ad Ex.P3. The said Bank Drafts had been prepared by the plaintiff in advance on 09.11.2005 i.e. 2 days prior to target date of 11.11.2005. The defendant had prepared demand draft No.266659 for Rs.7,87,532/- dated 09.11.2005 in the name of defendant No.1 Sukhwinder Singh vide his account No.20917 of Punjab and Sind Bank;



and also Draft No.266660 dated 09.11.2005 for sum of Rs.6,66,563/- in the name of Surjit Kaur defendant No.2 vide her account No.20917.

18. Defendant no.3 had alleged that signatures of defendants no.1 and 2 had been obtained on blank stamp papers as plaintiff was a Property Dealer. However, defendants had failed to substantiate their above said contention. No evidence was led by defendant No.3 to show that signatures of defendants No.1 and 2 had been obtained by the plaintiff on blank papers. Even no reason has been given as to why defendants No.1 and 2 would give their signed blank papers to unknown person like the plaintiff and never ask him to return the same. Except the bald assertion of the defendants in their written statement, no evidence in this regard was brought on record by the defendants. Further, defendants No.1 and 2 have failed to step into the witness box. They were the best evidence to prove the above-mentioned version, but they have kept away from the witness box and therefore failed to substantiate their contention made in the written statement. Even if, for the sake of argument, if it is assumed that what the defendants are saying is correct, no explanation has been given by defendants No.1 and 2 as to why no steps were taken by them to take back the blank signed papers. Even no explanation is on record as to why defendants failed to initiate any criminal proceedings against the plaintiff in this regard.

19. Lastly even the contention of the appellant that he is bonafide purchaser of the suit property, remains unproved. Defendant No.3 in his cross-examination has deposed that he has already purchased



the land adjoining the disputed land. As such, it cannot be believed that he was not aware of the Agreement between the plaintiff and the defendants No.1 and 2. Moreover, both the parties belong to the same village. Therefore, it is not believable that defendant No.3 had no knowledge of the present Agreement to Sell.

20. The relevant findings of learned Civil Judge (Junior Division), Fatehgarh Sahib are contained in para 16 of the judgment dated 02.07.2015, which read as under: -

“16. The plea of bonafide purchaser is also negated on the ground that the Defendant no 3 who claims himself to be a bonafide purchaser has not placed on file any Jamabandi or revenue record copy whereof was procured by him immediately before execution of the said sale deed. The only revenue record tendered by defendant no 3 is in the form of Jamabandis Ex D-14 to D 16 which has been issued in the year 2015. Further to prove his plea of bonafide purchaser he was required to prove that he has also paid consideration. Although he has said in his cross examination that the entire sale consideration was paid to defendant no. 1 and 2 in front of the sub registrar but the contents of sale deed Ex D1 and D2 speak other wise. It is mentioned in the opening lines of both the sale deeds that nothing has been paid as consideration in front of the Sub Registrar. Further defendant no 3 has stated in his cross examination that the sale consideration amount was paid from his bank account but no proof in the form of account statement or other bank record has been adduced in evidence. No independent witness of passing of the consideration which further falsifies his plea of bonafide purchaser.”

21. Furthermore, defendant No.3 also failed to lead any evidence that any sale consideration had passed hands at the time of registration of the impugned Sale Deed.
22. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.
23. 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**.
24. Pending applications, if any, stand disposed of.

07.04.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No