

2026:PHHC:039405



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

RSA-1964-2025 (O&M)

Date of decision: 11.03.2026

Kamla and others

.....Appellants

V/s

Anil

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Balkar Singh, Advocate, for the appellants.

VIKRAM AGGARWAL, J. (ORAL)

This is defendants' appeal against the judgment and decree dated 10.02.2025 passed by the Court of Additional District Judge, Sonipat, dismissing the appeal against the judgment and decree dated 16.09.2022 passed by the Court of Addl. Civil Judge (Senior Division), Kharkhoda, vide which the suit of the plaintiff for declaration and permanent injunction, was decreed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The plaintiff filed a suit for declaration to the effect that the plaintiff was owner in possession of house No. 622 measuring 60 sq. yards (fully described in the plaint) [hereinafter referred to as 'the house in question'] having purchased the same from one Shishpal son of Suraj Bhan, vide a registered sale deed dated 22.06.2009. It was claimed that physical

possession of the house in question was delivered to the plaintiff on 22.06.2009 itself and since then the plaintiff had been owner in possession of the said house. It was asserted that on 19.08.2014, the defendants tried to dispossess the plaintiff from the house in question, whereupon the plaintiff had moved an application to the police. The police reached the spot and asked the defendants to refrain from interfering in the peaceful possession of the plaintiff over the house in question, but once the police had left, the defendants had again started repeating the said threats. It was further claimed that on the intervening night of 19.08.2014, the defendants had stolen Shahteer, Bricks, Windows, Doors, Karis and Stone Sheets. Thereupon, the plaintiff had moved an application to the police on 20.08.2014, but neither any action was taken nor any FIR was lodged. It was further asserted that the defendants had no right, title or interest in respect of the house in dispute.

4. The defendants contested the suit by filing their written statement taking preliminary objections regarding maintainability, *locus standi* and cause of action. On merits, the factum of ownership of the plaintiff over the house in question on the basis of sale deed dated 22.06.2009 was denied. It was further asserted that the vendor of the plaintiff had already sold 1/3 share i.e., about 31 sq yards to one Lichhmi Devi on 21.07.2005 and said Lichhmi Devi sold the same to defendant No.3. It was further claimed that being a co-sharer, one Raj Bala, who was also owner to the extent of 1/3 share of the house in question, had sold her share to defendant No.3 vide sale deed

dated 26.08.2009 and had also executed an affidavit in this regard. It was, thus, claimed that the said Shishpal had been left with no share in the house in question and rather, he was residing at Narela, Delhi for the last many years. It was asserted that the said Shishpal had no right, title or interest in the house in question and that the sale deed dated 22.06.2009 was a forged document.

4.1 It was further the case of the defendants that the said Shishpal had filed a suit for declaration and permanent injunction, which was dismissed by the Court of Civil Judge (Junior Division) Sonapat on 11.12.2014. It was further asserted that the plaintiff had never remained in actual physical possession of the house in question.

5. From the pleadings of the parties, the following issues were framed by the trial Court:

“1. Whether the plaintiff is entitled to a decree for declaration to the effect that the plaintiff is owner in possession of the house mentioned in para No. 1 of the plaint as prayed for? OPP

2. Whether the plaintiff is entitled to a decree for permanent injunction as prayed for? OPP

3. Whether the suit of the plaintiff is not maintainable in the present form? OPD

4. Whether the plaintiff has no cause of action or locus standi to maintain this suit in its present form? OPD

5. Whether the plaintiff has not come to the court with clean hands? OPD

6. Relief.

6. Parties led their respective evidence.

7. The trial Court, vide judgment and decree dated 16.09.2022 decreed the suit. The appeal preferred against the said decision was also dismissed by the Court of Additional District Judge, Sonipat, vide judgment and decree dated 10.02.2025, leading to the filing of the instant appeal.

8. I have heard learned counsel for the appellants.

9. Learned counsel for the appellants submits that both Courts gravely erred in decreeing the suit filed by the plaintiff. It is further argued that the sale deed dated 22.06.2009 on the basis of which the plaintiff had claimed himself to be the owner in possession of the house in question, was a mere paper transaction and that as a matter of fact, the plaintiff had never been in possession of the house in question. It is further argued that Suraj Bhan father of Shishpal was the owner of the land/property measuring 90 square yards. The said Suraj Bhan died leaving behind seven legal heirs and upon some of the legal heirs having relinquished their rights, the said property devolved upon Jaipal, Shishpal and Hawa Singh (three sons of late Suraj Bhan). It is further argued that upon the death of Jaipal, his widow Rajbala became owner of 1/3rd share and she had sold her share in favour of defendant No.3 and that similarly, Shishpal had sold his share to one Lichhmi Devi, who in turn sold the same in favour of defendant No.3. It is, thus, argued that the sale deed dated 22.06.2009 executed in favour of the plaintiff was a forged and fabricated document.

9.1 It is further argued that the said Shishpal (vendor of the plaintiff) could not have transferred the house in question in favour of the plaintiff, when he himself did not have any title in respect of the said house. It is further argued that the appellants are still in possession of the house in dispute and, therefore, the very approach of both Courts, in decreeing the suit of the plaintiff, suffers from patent illegality and perversity. Still further, it is argued that once the suit for permanent injunction filed by Shishpal Singh against the defendants was dismissed, there was no occasion for both Courts to decree the suit filed by the plaintiff, as the plaintiff had based his claim on a sale deed executed by Shishpal. It is also argued that the defendants had produced on record affidavits executed by Lichhmi Devi and Rajbala in favour of appellant-defendant No.3, but the same were wrongly discarded by both Courts.

10. I have considered the submissions of learned counsel for the appellants, but find the same to be devoid of merit.

11. On the basis of testimony of PW7-Murti Devi and PW-9 Naresh (real sister and brother of Shishpal), the trial Court found that it was proved on record that the house in question fell to the share of the said Shishpal on the basis of a family settlement. It was further found that even if Rajbala, from whom the defendants were claiming to have acquired rights in the house in question, was a co-sharer, then also she was owner to the extent of her share i.e., 30 sq yards in the property purportedly left by Suraj Bhan, ancestor of the said Shishpal and Raj Bala. Thus, it was found that the plaintiff had proved

the title of his vendor over the house in question measuring 60 sq. yards.

12. As regards the dismissal of the suit for permanent injunction filed by Shishpal against the defendants, it was found that the decision of the said suit was not binding upon the plaintiff, as the plaintiff was not a party to the said suit.

13. In respect of the affidavits executed by Lichhmi Devi and Raj Bala in favour of defendant No.3 for the sale of 30 sq. yards each, it was found that the said affidavits cannot be considered a valid sale and cannot be treated at par with the sale deed(s). Reference was also made to the judgment of the Hon'ble Apex Court in **Suraj Lamp and Industries Pvt. Ltd. Vs. State of Haryana, (2012)1 SCC 656.**

14. The first Appellate Court, while affirming the findings recorded by the trial Court, found that once the title of the vendor of the plaintiff was proved on record and the house in question was transferred in favour of the plaintiff through a registered sale deed, a presumption of correctness was attached to the said documents. It was further found that on the other hand, the affidavits propounded by the defendants, could not be taken into consideration as the conveyance of any immovable property worth more than Rs.100/-, could only be done by way of a registered sale deed. The relevant extract from the judgment of the first Appellate Court reads as under:-

“17. Learned counsel for the appellants-defendants vehemently contended that DW3-Rajbala had categorically denied such family settlement and claimed 1/3rd share in total property, ad-measuring 90

sq. yards. It has been rightly held by the learned trial Court even if it is accepted for the sake of arguments that defendant no.3 was co-sharer to the extent of 30 sq. yards then also the capacity right and title of the vendor-Shishpal qua the suit property ad-measuring 60 sq. yards cannot be disputed. Moreover, after proof of title and capacity Shishpal as owner of the suit property, a valid and legal conveyance was transferred to the plaintiff on the basis of registered sale deed, which has presumption of law attached to its correctness.

18. *Then the defendants have relied on affidavits with regard to prior sale of share by Shishpal to Lichhmi Devi and then Licchmi Devi to defendant no.3. It is settled proposition of law that the conveyance of immoveable property of the amount more than Rs. 100/-cannot be accepted as legal one in absence of its registration. Hence, learned trial Court has rightly relied upon the judgment titled as Suraj Lamp and another Private Limited Vs. State of Haryana, SLP (C) 13917/2009. Thus, mere affidavits or agreements would not convey any right, title or interest either in favour of Lichhmi Devi or in favour of Ramesh Kumar- defendant no.3. More so, it is admitted fact that neither Lichhmi Devi nor defendant no.3 had asserted their right for specific performance of the agreement or affidavit set up against Shishpal, for which also adverse inference is taken against them. The affidavits so set up by defendants are of no consequence as per law, nor provide protection under Section 53-A of the Transfer of Property Act.”*

15. Both Courts recorded concurrent findings of facts and law on the basis of evidence on record. Such findings cannot be said to be suffering from any patent illegality or

infirmity, which may warrant interference by this Court in the present Regular Second Appeal.

16. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

17. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

11.03.2026
ds

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