

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

I.
CHALTI DEVI AND OTHERS

RSA-2157-2022 (O&M)

. . . . Appellants

Vs.

RAM CHANDER (SINCE DECEASED)
THROUGH HIS LRS AND OTHERS

. . . . Respondents

II.
RAM DAYAL (SINCE DECEASED) THROUGH HIS LRS

RSA-2897-2022 (O&M)

. . . . Appellant

Vs.

RAM CHANDER (SINCE DECEASED)
THROUGH HIS LRS AND OTHERS

. . . . Respondents

Reserved on: 20.02.2026
Pronounced on: 23.02.2026
Pronounced Fully/Operative Part: Fully

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Gaurav Aggarwal, Advocate, for the appellant.
Mr. Amit Jain, Advocate, for the respondents.

DEEPAK GUPTA, J.

The present regular second appeals arise out of a common judgment dated 19.05.2022 rendered by the First Appellate Court, whereby two cross suits instituted between real brothers concerning the same immovable property were adjudicated together. By the impugned judgment, the First Appellate Court affirmed the findings of the trial Court, whereby the suit for permanent injunction instituted by Ram Chander was decreed and the suit for specific performance instituted by Ram Dayal was dismissed.

2. Ram Chander and Ram Dayal are real brothers. The dispute between the parties relates to a residential plot forming part of Khasra No. 1624/239

situated at Om Nagar, Gurugram. Ram Chander asserted ownership and possession over the suit property on the strength of a registered sale deed bearing Vasika No.1868 dated 03.07.1985 and sought a decree of permanent injunction restraining the defendants from interfering in his possession and from raising construction thereon. The defendants, while contesting the suit, set up a plea that Ram Chander had executed an agreement to sell dated 17.08.2001 in favour of Ram Dayal for a total consideration of ₹2,30,000/- and that possession of the plot had been delivered pursuant thereto. On the basis of the said plea, Ram Dayal instituted a separate suit seeking specific performance of the alleged agreement.

3. Both suits were consolidated and tried together. Upon appreciation of the oral and documentary evidence, the trial Court decreed the injunction suit filed by Ram Chander and dismissed the suit for specific performance filed by Ram Dayal on 07.04.2017. The First Appellate Court, after reappraisal of the entire material on record, concurred with the findings of the trial Court and dismissed the appeals preferred by the legal representatives of Ram Dayal on 19.05.2022.

4. Assailing the concurrent findings, in present two appeals, learned counsel for the appellants has contended that the Courts below misread the evidence while disbelieving the agreement to sell; that possession of Ram Dayal stood established by construction of a tin shed and by obtaining electricity connection; and that once possession pursuant to the agreement was shown, the decree for injunction ought not to have been granted in favour of the respondent.

5. *Per contra*, learned counsel appearing for the respondent – caveator has supported the impugned judgments and submits that the ownership of Ram Chander based on a registered sale deed was never disputed; that the agreement to sell was not proved in accordance with law; that material witnesses including attesting witnesses were withheld; and that the concurrent findings recorded by both Courts are findings of fact not open to interference in the limited jurisdiction of this Court under Section 100 CPC.

6. However, upon consideration of submissions of both the sides, this Court finds that the findings regarding execution of the agreement, payment of consideration, and nature of possession are based upon appreciation of evidence and do not give rise to any debatable legal issue. Consequently, no substantial question of law arises for determination in the present appeals.

7. It is a settled principle that concurrent findings of fact recorded by the Courts below cannot be interfered with in second appeal unless shown to be perverse, based on no evidence, or resulting from misapplication of legal principles. As consistently held by Hon'ble Supreme Court, re-appreciation of evidence is impermissible in second appeal and interference is justified only where findings are wholly unreasonable or suffer from a substantial error of law.

8. In the present case, the findings disbelieving the agreement to sell and recognising the respondent's possession flow from a proper evaluation of evidence and cannot be characterised as perverse. Merely because another view is possible does not justify interference under Section 100 CPC.

9. The execution of the agreement to sell having been specifically denied, the burden squarely lay upon the appellants to prove its execution in accordance with law. Proof of a disputed document requires satisfactory evidence of execution as contemplated under Section 67 of the Evidence Act, 1872. Where attesting witnesses are available and the document is relied upon as the foundation of substantive relief, their non-examination assumes significance.

10. In the present case, the attesting witnesses to the agreement were not examined and the stamp vendor, who could have produced contemporaneous record of execution, was also withheld. Such omission justified the Courts below in drawing an adverse inference against the appellants. The absence of receipt evidencing payment of substantial consideration further weakens the appellants' case and renders the agreement doubtful.

11. Thus, the concurrent conclusion that the agreement to sell was not proved is legally sustainable.

12. The Courts below have rightly applied the settled principle that possession ordinarily follows title. A temporary structure such as a tin shed, in the absence of proof of lawful entry or settled possession, does not defeat the rights of the true owner. Once the agreement to sell was disbelieved, the appellants’ possession, if any, could not be treated as juridical possession capable of resisting the respondent’s claim for injunction.

13. This Court is conscious that the dispute is between real brothers and pertains to a small residential property. Family disputes often generate prolonged litigation disproportionate to the value of the property and disturb familial harmony. Nevertheless, equity cannot override settled legal principles. Relief of specific performance being discretionary and the appellants having failed to prove the foundational agreement, the Courts below were justified in declining such relief while protecting the possession of the recorded owner.

14. For the reasons recorded above, the appeals do not give rise to any substantial question of law and are accordingly dismissed. Pending application(s), if any, stands disposed of.

A photocopy of this order be placed on the file of connected case.

23.02.2026

Vivek

Whether Speaking/reasoned
Whether reportable

Yes
No

(DEEPAK GUPTA)
JUDGE

Uploaded on:24.02.2026