



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 3095 of 2023 (O&M)

Date of decision: 11.03.2026

Amit Bansal

. . . . Appellant

Vs.

Dr. Jatinder Narula & Ors.

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Gursimranjit Singh, Advocate,
for the applicant-appellant.

DEEPAK GUPTA, J.

Defendant No.3 of the case is before this Court against the concurrent findings recorded by the Courts below. The suit for declaration and permanent injunction filed by Dr. Jatinder Narula (*respondent No.1 herein*) was decreed by the learned trial Court vide judgment & decree dated 27.03.2017, whereby the sale deed dated 10.03.2010 executed in favour of defendants No.3 and 4 was declared illegal, null and void. The appeal preferred by defendant No.3 i.e. the present appellant was dismissed by the learned First Appellate Court vide judgment dated 16.10.2019, affirming the findings of the trial Court.

2. The appeal is accompanied by two applications. The first application bearing **CM-11051-C of 2023** seeks condonation of delay of 647 days in re-filing the appeal, while the second application bearing **CM-11052-C of 2023** under Section 5 of the Limitation Act seeks condonation of delay of 56 days in filing the appeal.

3. In the application for condonation of delay in filing the appeal, it is stated that the delay occurred during the Covid period and the same was unintentional. In the application seeking condonation of delay in re-filing, it has been stated that after the appeal was returned by the Registry for removal of objections, the file was misplaced and the appeal could only be re-filed after the same was traced.

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4. The reasons furnished in both the applications are vague and unsupported by any specific particulars. Mere assertion that the delay was unintentional or that the file was misplaced cannot constitute sufficient cause for condonation of such inordinate delay, particularly when the delay in re-filing itself is 647 days. In the absence of any satisfactory explanation, both the applications are liable to be dismissed.

5. Consequently, the applications seeking condonation of delay in filing and re-filing the appeal stand dismissed. As a necessary corollary, the appeal itself is liable to be dismissed as barred by limitation.

6. Nevertheless, even if the matter is examined on merits, this Court finds that the appeal does not raise any substantial question of law warranting interference under Section 100 of the Code of Civil Procedure.

7.1 The case of the plaintiff was that the suit property, namely House No.46, Passey Road, Patiala, originally belonged to Sham Lal Narula. After his death, the property devolved upon his wife Prem Kumari, who died in the year 1969. Sham Lal Narula had four sons, namely Harinder Narula, Jatinder Narula (plaintiff), Yash Narula and Vinod Narula, and two daughters namely Vimal Gurbux and Prabha Arora. According to the plaintiff, the property ultimately devolved upon the legal heirs and subsequently various Wills were executed by the brothers in favour of the plaintiff. In earlier litigation, the plaintiff had already filed a suit for declaration regarding ownership of the suit property, which was decreed by the learned Sub Judge Ist Class, Patiala on 05.02.1993, declaring the plaintiff to be the owner in possession of the property. The said judgment was upheld by the First Appellate Court vide judgment dated 17.03.1998. It was further pleaded that defendant No.1 Raj Dulari had been working as a maid servant in the said house and had earlier attempted to claim ownership on the basis of alleged Wills, which were held to be forged in the earlier litigation.

7.2 The plaintiff came to know in April 2010 that defendants No.1 and 2 had executed a sale deed dated 10.03.2010 in favour of defendants No.3 and 4 on the basis of a purported power of attorney and alleged Wills.

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According to the plaintiff, neither Raj Dulari nor her alleged attorney had any right, title or interest in the suit property and the sale deed was based on forged and fabricated documents. Accordingly, the suit was filed seeking declaration that the said sale deed was null and void and for permanent injunction restraining the defendants from interfering in the possession of the plaintiff.

8. Defendant No.1 contested the suit and denied the ownership of the plaintiff. It was pleaded that Vinod Narula was the owner of the property and that certain Wills had been executed in favour of Raj Dulari and Jagdish Kumar. However, interestingly, defendant No.1 also denied the execution of the alleged power of attorney in favour of defendant No.2 and asserted that the same as well as the sale deed were forged documents.

9. Defendant No.2, on the other hand, pleaded that Raj Dulari had executed a valid power of attorney in his favour and that the sale deed dated 10.03.2010 had been validly executed in favour of defendants No.3 and 4.

10. The present appellant (defendant No.3) as well as defendant No.4 took the plea that they were bona fide purchasers for value and had purchased the property after verifying the revenue record and the authority of the vendor.

11. The trial Court, after framing issues and appreciating the evidence, found that the ownership of the plaintiff over the suit property already stood established through the earlier judgment dated 05.02.1993, which had attained finality. The alleged Wills relied upon by Raj Dulari had already been disbelieved in the earlier proceedings. It was further found that since Raj Dulari herself had no right, title or interest in the suit property, she could not have executed any valid power of attorney authorising defendant No.2 to sell the property. Consequently, the sale deed executed in favour of defendants No.3 and 4 was held to be illegal, null and void and not binding on the rights of the plaintiff. On these findings, the suit was decreed and the defendants were restrained from interfering in the possession of the plaintiff.

12. Aggrieved by the decree of trial court, defendants No.3 and 4 preferred separate appeals, which were decided together by the learned Additional District Judge, Patiala. The First Appellate Court affirmed the findings of the trial Court holding that the title of the plaintiff stood conclusively established by the earlier judgments. It was further observed that once Raj Dulari had no right or title in the property, the alleged power of attorney in favour of defendant No.2 was inconsequential and could not confer any authority to transfer the property. It was also noticed that the alleged power of attorney itself had not been produced on record and even the person in whose favour it was purportedly executed did not step into the witness box to prove its execution. On these considerations, the Appellate Court concluded that the sale deed dated 10.03.2010 did not confer any right, title or interest upon defendants No.3 and 4 and upheld the decree passed by the trial Court.

13. Learned counsel for the appellant contends that the Courts below failed to appreciate that the appellant is a bona fide purchaser and that the suit was the result of collusion between the plaintiff and the other defendants.

14. Having heard learned counsel and having perused the record, this Court finds no merit in the appeal.

15. The title of the plaintiff over the suit property had already been declared by a competent Civil Court in the judgment dated 05.02.1993, which was affirmed in appeal and has attained finality. Once the ownership of the plaintiff stood judicially determined, the defendants could not derive any title from Raj Dulari who had no right or interest in the property.

16. The principle of law is well settled that no person can transfer a better title than what he himself possesses. Therefore, even if the appellant claims to be a bona fide purchaser, the same cannot validate a transaction, where the vendor had no title whatsoever.

17. Furthermore, the alleged power of attorney forming the basis of the sale deed was never proved on record and the alleged attorney himself did not step into the witness box. In the absence of proof of the authority to execute the sale deed, the transaction cannot confer any right upon the appellant.

18. The findings recorded by both the Courts below are pure findings of fact based on appreciation of evidence and no perversity or misreading of evidence has been shown.

19. It is well settled that in a Regular Second Appeal under Section 100 CPC, interference by this Court is permissible only where the case involves a substantial question of law. The appellant has failed to demonstrate the existence of any such question.

20. In view of the above discussion, this Court finds that the appeal is devoid of merit and does not raise any substantial question of law.

21. Consequently, the present Regular Second Appeal stands dismissed, both on the ground of limitation as well as on merits.

22. However, it is clarified that dismissal of the present appeal and the declaration of sale deed dated 10.03.2010 as illegal and void shall not deprive the appellant–defendant No.3 of his remedy in accordance with law for recovery of the sale consideration allegedly paid by him.

23. It is well settled that a person cannot convey a better title than what he himself possesses and once it has been held that defendant No.1 had no right, title or interest in the suit property, the transaction in favour of the appellant cannot confer any enforceable title. Nevertheless, under Section 65 of the Indian Contract Act, 1872, when an agreement is discovered to be void or when a contract becomes void, the person who has received any advantage under such agreement is bound to restore the same or to make compensation to the person from whom he received it. Thus, the appellant, who claims to have paid consideration on the basis of the impugned sale deed, cannot be left remediless and would be at liberty

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to seek appropriate remedy for recovery of the consideration amount from the person, who received the same or who purported to transfer the property without lawful authority. Needless to observe that such remedy shall be subject to limitation and shall be pursued before the competent forum in accordance with law.

24. Pending applications, if any, also stand disposed of.

11.03.2026
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(DEEPAK GUPTA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>