



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

122

RSA-5955-2019(O&amp;M)

Date of decision: 19.02.2026

Ran Singh

...Appellant(s)

Vs.

Satyanarain

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Pardeep Kumar Rapria, Advocate  
for the appellant.

\*\*\*

NIDHI GUPTA, J.

The plaintiff is in second appeal against the concurrent judgments and decrees of the learned Courts below whereby suit filed by the appellant for declaration to the effect that the plaintiff is owner in possession of land measuring 16 bigha 1 biswa i.e. 1/10<sup>th</sup> share of total land measuring 160 bigha 8 biswa as described in the plaint, and as per latest Jamabandi of 1996-97; and further declaration that Sale Deed No.446 dated 30.04.2003; showing transfer of the land measuring 16 bigha 1 biswa in favour of the defendant; and Mutation No.2701 dated 20.06.2003, were wrong, illegal, null and void, based on fraud, and does not create any title in favour of the defendant, has been dismissed by both the Courts below.



2. It was the pleaded case of the appellant in the plaint that the plaintiff is owner in possession of the suit land which is ancestral and co-parcenary in nature. The plaintiff had mortgaged the land in dispute in favour of one Nand Ram for mortgage consideration of Rs.1 lakh vide registered Mortgage Deed dated 03.07.2001. The plaintiff was required to pay interest of Rs.2/- per cent per month on the said mortgage consideration. The plaintiff was not having sufficient funds to discharge his liability and to get the land redeemed. Therefore, the plaintiff had requested the defendant to advance some sum to the plaintiff enabling him to redeem the land in question. It was pleaded that defendant had acceded to the request of the plaintiff and agreed to advance a sum of Rs.84,000/- by way of supplementary mortgage of the land in dispute and also to furnish pronote and receipt. Accordingly, the plaintiff created second charge on the suit land by way of supplementary mortgage as he was in urgent need of funds. It was stated that the defendant paid a sum of Rs.84,000/- in cash at the house on 30.04.2003 and in lieu thereof, he got signatures of the plaintiff on the printed pronote and receipt by saying that the same would be filled after execution and registration of supplementary mortgage deed. The plaintiff in good faith put his signatures on the printed unfilled blank pronote and receipt. It was further pleaded that on 30.04.2003, the defendant brought the plaintiff to the seat of Petition Writer Om Prakash and brought to the plaintiff a document representing it to be supplementary mortgage deed. Believing it to be supplementary



mortgage deed, the plaintiff affixed his signature on the said Deed and also on the register of the Petition Writer. It was contended that the contents of the documents were never read over or explained to the plaintiff. Thereafter, defendant brought the plaintiff to the Office of the Sub-Registrar, Bhiwani. Even Sub-Registrar, Bhiwani did not read contents of the document but simply asked the plaintiff whether the signature was made by him or not to which, the plaintiff admitted having affixed his signature on the Deed.

3. It was further pleaded that thereafter, on 18.05.2004, the plaintiff deposited a sum of Rs.1,70,000/- (Rs.1,00,000/- being the mortgage consideration and Rs.70,000/- by way of interest) in the Treasury at Bhiwani and filed an application for redemption of mortgage before the Assistant Collector, 1<sup>st</sup> Grade, Bhiwani. Vide order dated 15.06.2004, the suit land was redeemed. However, in January 2010, the plaintiff received notice in a Civil Suit titled as “Manjeet Vs. Sat Narain & Ran Singh”; whereupon the plaintiff discovered that son of the plaintiff had challenged the Sale Deed No.446 dated 30.04.2003 and Mutation No.2701 dated 20.06.2003 in respect of the suit land. It was pleaded that it was only then that the plaintiff came to know for the first time regarding the aforesaid Sale Deed. The plaintiff also received another summon in Civil Suit titled as “Kalawait & Others Vs. Ran Singh & Sat Narain” filed by sisters and brothers of the plaintiff in respect of the suit land challenging the judgment and decree dated 01.10.1991 in respect of land measuring 39 bighas 18 biswas; and Sale Deed No.446 dated 30.04.2003.



4. It was accordingly prayed that the Sale Deed No.446 dated 30.04.2003 showing transfer of land measuring 16 bighas 1 biswa in favour of the defendant and the consequent Mutation No.2701 dated 20.06.2003 are illegal, null and void, based on fraud; and be declared as such as the plaintiff had put his signature on the said Deed believing it to be a supplementary mortgage deed in favour of the defendant. It was further stated that the plaintiff had never delivered possession of the land in dispute to the defendant. The plaintiff reiterated that he had acquired knowledge of the impugned Sale Deed in the month of January 2010 on receipt of summons in the aforesaid suits. The plaintiff called upon the defendant on 26.08.2010 to admit the claim of the plaintiff. However, the defendant refused to do so. Accordingly, present suit was filed on 30.08.2010.

5. Upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the learned Civil Judge (Junior Division), Bhiwani, dismissed the suit of the plaintiff with costs vide judgment and decree dated 26.03.2015. The Civil Appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Bhiwani vide judgment and decree dated 30.04.2019. Hence, present second appeal by the plaintiff.

6. It is inter alia submitted by learned counsel for the appellant that while passing the impugned judgments and decrees, the learned Courts below have ignored the fact that it was the clearly pleaded case of the appellant that the suit land was ancestral in nature and had not been



partitioned and had been shown to have been sold without legal necessity. It is submitted that in such a situation, the Sale Deed could not have been upheld. The learned Courts below failed to appreciate that it is admitted fact on record that at the time of execution of alleged Sale Deed, the suit property was mortgaged. It is submitted that no person in his right mind will buy mortgaged property. Clearly therefore, the defendant has executed the Sale Deed by playing fraud upon the appellant. It is also undisputed fact on record that the appellant had redeemed the suit property after the sale. This fact has not been discussed by the District Courts in the impugned judgments. The District Courts have also failed to appreciate that the marginal witness to the alleged Sale Deed is the wife of the defendant which is very abnormal circumstance. It is accordingly prayed that the impugned judgments and decrees suffer from manifest errors of law and fact and cannot be sustained. It is prayed that the present appeal be allowed and the impugned judgments and decrees be set aside.

7. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the record in detail. I find no merit in the submissions advanced on behalf of the appellant.

8. It has been contended on behalf of the appellant that the Sale Deed No.446 dated 30.04.2003 executed by the plaintiff in favour of the defendant, was got executed by the defendant in his favour by playing fraud upon the plaintiff. To prove his case, besides himself, the plaintiff has



examined only one other witness PW2 Mohinder Singh who had deposed that the plaintiff is owner in possession of the suit land and suit land had not been partitioned among the co-sharers. However, during his cross-examination, PW2 had admitted that he was cousin brother of the plaintiff. Thus, evidence of PW2 was not reliable being interested witness.

9. Furthermore, to prove the alleged fraud, it has also been contended by the appellant that he was not aware of the contents of the Sale Deed as the same was not read over to him. However, the defendant has produced the Sale Deed Ex.D1 in original. A perusal of Ex.D1 shows that it is typed in Hindi and also bears the computerised photograph of the plaintiff taken in the Office of the Sub-Registrar at the time of registration. In this regard, it is necessary to appreciate that the plaintiff in his cross-examination has admitted that he had passed 5<sup>th</sup> class; that he knows what was written in his Affidavit (Ex.PW1/A); he admitted his signatures on the Sale Deed tendered by him. The plaintiff has also admitted his signatures on the impugned Sale Deed (ex.P7), which was made by him in the presence of the defendant, Hari Singh Numberdar and Anand Kaur wife of the defendant. Contention of the plaintiff that contents of Sale Deed were not read over to him, is rendered nugatory as from the above admissions of the plaintiff, it is clear that he is educated enough and was well versed with the language written in the Sale Deed. Moreover, said Sale Deed is a registered document and therefore, presumption of truth is attached to it. Consequent thereto,



Mutation No.2701 was sanctioned on 20.06.2013; and entry of mutation was also made in Jamabandi for the year 1996-97 (Ex.D3). Thus, the plaintiff was unable to prove that Sale Deed No.446 dated 30.04.2003 was obtained by the defendant by way of fraud and undue influence.

10. On the other hand, the defendant while appearing as DW1 and by way of his Affidavit (Ex.DW1/A) has proved the impugned Sale Deed. Defendant has also examined DW3 Ashok son of Om Parkash, Petition Writer, who proved the signatures of his father on the Sale Deed; as also proved the register entry No.472 at page 1 of the Bahi in respect of the said Sale Deed. Defendant also proved the Sale Deed by examining DW4 Ajay Kumar, HRC, office of DC, Bhiwani, who proved that the impugned Sale Deed was correct according to the Office Records.

11. Defendant also proved that he was bona fide purchaser as he had purchased suit property for valuable sale consideration of Rs.4,84,000/-; that possession of suit land was delivered to him at the time of execution of Sale Deed; that before purchasing the property, he had made enquiry and had got the revenue record inspected.

12. Furthermore, the plaintiff was also unable to prove that the suit land was ancestral in nature. No evidence whatsoever was led by the plaintiff to prove the alleged ancestral nature of the suit land.

13. It is no longer res Integra that this Court in second appeal has limited jurisdiction to interfere in the concurrent findings of fact rendered



by the Courts below; as held by the Hon'ble Supreme Court in **M/s. Shivali Enterprises v. Godawari (Deceased) (SC) : Law Finder Doc ID # 2034559**, wherein it is held as under:-

*"14. This Court, in the case of **Randhir Kaur v. Prithvi Pal Singh and Others (2019) 17 SCC 71**, after considering the scope of interference under the old section 100 of the Civil Procedure Code, 1908 (for short "CPC") and Section 41 of the Punjab Act, has observed thus:*

*"15. A perusal of the aforesaid judgments would show that the jurisdiction in second appeal is not to interfere with the findings of fact on the ground that findings are erroneous, however, gross or inexcusable the error may seem to be. The findings of fact will also include the findings on the basis of documentary evidence. The jurisdiction to interfere in the second appeal is only where there is an error in law or procedure and not merely an error on a question of fact."*

*15. It could thus be seen that this Court has held that, even when a court exercises jurisdiction under Section 41 of the Punjab Act, it cannot interfere with the findings of fact in second appeal on the ground that the said findings are erroneous, howsoever gross or inexcusable the error may seem to be. It has been held that the findings of fact would also include the findings on the basis of documentary evidence. The jurisdiction under Section 41 of the Punjab Act would be available only when there is a substantial error or defect in the procedure provided by the CPC or by any other law for the time being in force."*





14. Ld. Counsel for the appellant is unable to dispute or controvert the factual and legal position as noted above. As such, the present second appeal stands **dismissed**.
15. Pending application(s) if any also stand(s) disposed of.

19.02.2026  
Sunena

(Nidhi Gupta)  
Judge

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