2026:PHHC:082920

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-2837-2022 (O&M)
Judgment reserved on :11.05.2026
Judgment pronounced on: 26.05.2026

GAJJAN SINGH **... APPELLANT**

VERSUS

HARPREET SINGH **...RESPONDENT**

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Rajesh Punj, Advocate (through V.C.),
Mr. Sarvesh Rattan, Advocate and
Mr. Sahaj Punj, Advocate
for the appellant.

****

PARMOD GOYAL, J. (ORAL)

1. The present appeal has been preferred by the appellant-defendant, being aggrieved by the judgment and decree dated 24.01.2017 passed by the learned Civil Judge (Junior Division), Samana, whereby the suit for possession by way of specific performance of agreement to sell dated 02.06.2011 filed by respondent-plaintiff was decreed. The appellant-defendant is also aggrieved by the judgment and decree dated 26.07.2022 passed by the learned Additional District Judge, Patiala, whereby the first appeal preferred by the appellant-defendant was dismissed.

2. The respondent-plaintiff, in his suit for possession by way of specific performance of agreement to sell dated 02.06.2011 had asserted that the appellant-defendant, being the owner of the suit property as detailed in the head note of the plaint, had agreed to sell the suit property vide written agreement to

sell dated 02.06.2011 for a total sale consideration of Rs. 12,00,000/-. Out of the said amount, a sum of Rs. 7,22,000/- was paid as earnest money, and the remaining amount was agreed to be paid at the time of execution and registration of the sale deed on 10.12.2011. It was further asserted that the agreement to sell was scribed at the instance of the appellant-defendant by Ratan Lal Garg, Document Writer, and after the contents thereof were duly explained to the parties, the same was executed by the appellant-defendant. It was also asserted that a separate receipt acknowledging the receipt of earnest money of Rs. 7,22,000/- was executed by the appellant-defendant in favour of respondent-plaintiff in the presence of witnesses. An entry regarding execution of the agreement was duly recorded by the scribe in his register. It was further pleaded that on 10.12.2011, the appellant-defendant requested the respondent-plaintiff to extend the time for execution of the sale deed, which was accepted by the respondent-plaintiff, and accordingly, the date for extension of time for execution and registration of the sale deed was mutually extended to 25.01.2012. The respondent-plaintiff asserted that he always remained ready and willing to perform his part of the contract and to pay the balance sale consideration and was ready to get the sale deed executed and registered on 25.01.2012 and had arranged the balance sale consideration along with the requisite expenses for purchase of stamp papers. Prior to the date fixed for execution of the sale deed, the respondent-plaintiff approached the appellant-defendant, tendered the balance sale consideration, and requested execution of the sale deed. The appellant-defendant assured the respondent-plaintiff that he would perform his part of the contract on 25.01.2012. However, on 25.01.2012, the respondent-plaintiff remained present in the office of the Sub-Registrar from 8:30 a.m. to

5:30 p.m. to perform his part of the contract, but neither the appellant-defendant nor anyone on his behalf appeared for execution of the sale deed. After waiting for entire day, the respondent-plaintiff got his presence marked by swearing an affidavit attested by the Executive Magistrate. It was further asserted that even on 25.01.2012, the respondent-plaintiff had approached the appellant-defendant, but the appellant-defendant avoided execution of the sale deed on one pretext or another. Thereafter, a legal notice was issued to the appellant-defendant calling upon him to execute the sale deed, but upon his failure and refusal to do so, the suit for specific performance, was instituted.

3. The appellant-defendant, in his detailed written statement, raised several objections regarding the maintainability of the suit and contested the claim of the respondent-plaintiff on various grounds. It was specifically asserted that the appellant-defendant had never entered into any agreement to sell dated 02.06.2011 and that the alleged agreement was the result of fraud and fabrication. It was further pleaded that the brother of the appellant-defendant had registered FIR No. 109 dated 21.05.2009 under Sections 452, 341, 148 and 149 IPC against the respondent-plaintiff, on account of which the respondent-plaintiff got annoyed and with a view to wreak vengeance, fabricated the alleged agreement to sell dated 02.06.2011. The appellant-defendant further asserted that he had, in fact, taken a loan of Rs.1,50,000/- from Jagjit Singh, father of the respondent-plaintiff, and at that time Jagjit Singh had obtained the signatures of the appellant-defendant on certain blank papers as security. Thereafter dispute between Gulzar Singh brother of appellant-defendant, respondent-plaintiff and one Harsimran Singh arose and FIR was registered against the appellant-plaintiff. Respondent-plaintiff started pressurising the appellant-defendant for

cancellation of the aforesaid FIR and also threatened to misuse the blank signed papers against him. It was specifically denied that any agreement to sell had ever been executed by the appellant-defendant in favour of the respondent-plaintiff. The appellant-defendant further claimed that the amount borrowed from Jagjit Singh, father of the respondent-plaintiff was repaid, but despite repeated requests, the blank signed stamp papers and blank signed cheques were not returned to him. It was also asserted that the land adjoining the land of the appellant-defendant was sold by the respondent-plaintiff at the rate of Rs. 30,00,000/- per acre and, therefore, there was no occasion or reason for the appellant-defendant to agree to sell his land at the rate of Rs. 12,00,000/- per acre, as alleged by the respondent-plaintiff. Accordingly, dismissal of the suit was prayed for.

4. From the pleadings of the parties, the following issues were framed:

1. *Whether the defendant has executed agreement to sell dated 2.6.2011 regarding the suit land in favour of plaintiff? OPP*
2. *If issue no.1 proved whether plaintiff is entitled to the relief of specific performance of the agreement to sell? OPP*
3. *If issue no.2 is not proved whether plaintiff is entitled to the alternative relief of recovery as prayed for? OPP*
4. *Whether the plaintiff is entitled to relief of permanent injunction as prayed for? OPP*
5. *Whether the agreement to sell in question is forged and fabricated document? OPD*
6. *Whether the suit of the plaintiff is not maintainable in the present form? OPD*
7. *Whether the plaintiff has no locus standi to file the present suit? OPD*
8. *Whether the plaintiff has not come to the court with clean hands? OPD*

> *9. Whether the plaintiff has no cause of action to file present suit? OPD*
>
> *10. Relief."*

5. The onus to prove the due execution of the agreement to sell dated 02.06.2011 was upon the respondent-plaintiff. In order to discharge the said onus, the respondent-plaintiff himself appeared in the witness box as PW-3 and also examined both the attesting witnesses to the agreement, namely Harvinder Singh as PW-1 and Tek Singh, Numberdar, as PW-2 and Bhupinder Singh, Data Entry Operator from the office of Sub-Registrar as PW-4. The respondent-plaintiff further examined Norata Ram, Stamp Vendor, as PW-5 and also examined Ratan Lal Garg document writer, scribe of the agreement as PW-5 (wrongly numbered). All the aforesaid witnesses consistently deposed regarding the purchase of stamp papers for execution of the agreement, scribing of the agreement to sell, and its due execution by the appellant-defendant and respondent-plaintiff in the presence of the attesting witnesses, namely PW-1 and PW-2. PW-5, the stamp vendor, specifically stated that he had sold the stamp papers for the agreement to sell and duly proved the relevant register containing the entry regarding sale of stamp papers to the appellant-defendant as Ex. PW-5/1, PW-5 also identified and admitted his signatures on the stamp papers as Ex. PW-5/2.

6. Similarly, the scribe categorically stated that the agreement was scribed by him on the instructions and at the instance of the appellant-defendant. He further deposed that after the agreement had been written, the same was read over and explained to the parties, whereupon both the respondent-plaintiff and the appellant-defendant had signed the agreement in the presence of the attesting

witnesses, namely PW-1 and PW-2. Likewise, PW-1 and PW-2 consistently deposed that the agreement to sell dated 02.06.2011 was scribed on the instructions of the appellant-defendant in their presence and after that contents thereof were read over to the parties, both the respondent-plaintiff and the appellant-defendant signed the same in their presence, and thereafter they also appended their signatures as attesting witnesses. PW-1 Harvinder Singh, attesting witness to the agreement to sell, further proved the receipt regarding payment of earnest money as well as the endorsement extending the time for execution of the sale deed on 10.12.2011. He specifically stated that the appellant-defendant had appended his signatures acknowledging receipt of the earnest money and extending the last date for execution of the sale deed. The respondent-plaintiff also proved issuance of legal notice Ex. PD through postal receipt Ex. PX. Thus, the respondent-plaintiff led cogent and convincing evidence regarding the due execution of the agreement to sell dated 02.06.2011, payment of earnest money vide receipt of the even date, extension of time for execution of the sale deed from 10.12.2011 to 25.01.2012, and his presence before the Sub-Registrar on 25.01.2012. The respondent-plaintiff also specifically averred in the plaint as well as in his affidavit that he was always ready and willing to perform his part of contract by way of paying the balance sale consideration and by bearing the expenses for execution and registration of the sale deed in his favour.

7. In the present case, it is pertinent to note that upon the failure of the appellant-defendant to execute the sale deed, the respondent-plaintiff duly issued a legal notice, Ex. PD, through registered post vide postal receipt Ex. PE. However, no reply whatsoever was ever given by the appellant-defendant to the

said legal notice.

8. Likewise, despite receipt of the notice, the appellant-defendant did not initiate any criminal proceedings, lodge any complaint with the police authorities, or approach any other competent authority alleging misuse of blank signed papers by the respondent-plaintiff. Even after institution of the present suit, no steps were taken by the appellant-defendant against the respondent-plaintiff alleging forgery or fabrication of the agreement and allied documents.

9. The conduct of the appellant-defendant, therefore, clearly indicates that the plea sought to be raised by him regarding misuse of blank papers is false, concocted, and merely an afterthought devised to evade his contractual obligations arising out of the agreement to sell dated 02.06.2011.

10. The above-noted evidence led by the respondent-plaintiff has remained unchallenged and unrebutted. In the present case, the appellant-defendant has not denied his signatures on the agreement to sell, the receipt acknowledging earnest money, or the endorsement extending the time for execution of the sale deed. The specific case set up by the appellant-defendant is that he had taken a loan of Rs.1,50,000/- from Jagjit Singh, father of the respondent-plaintiff, and at the time of obtaining the said loan, he had also obtained signatures from appellant-defendant on certain blank stamp papers and other blank papers as security, which were subsequently misused by the respondent-plaintiff after relations between the parties became strained on account of the FIR registered by the defendant's brother in the year 2009.

11. However, upon consideration, the defence taken by the appellant-defendant to explain his signatures stands falsified by his own assertions and conduct. According to the appellant-defendant, the alleged blank papers were

signed only as security for a loan of Rs. 1,50,000/-. The appellant-defendant further claimed that the said loan amount had already been repaid to the father of the respondent-plaintiff, but despite repayment, the blank signed papers were not returned and were later misused in the present case. The appellant-defendant also asserted that the FIR lodged by his brother in the year 2009 was the reason for the alleged false implication and that the present suit was filed only to pressurise his brother for withdrawing the said FIR.

12. No evidence whatsoever has been led by the appellant-defendant to prove that he had actually taken a loan of Rs. 1,50,000/- from the father of the respondent-plaintiff. The appellant-defendant has also failed to disclose when the alleged loan was taken, as neither the date, month nor year of the alleged transaction has been mentioned. It has also not been clarified whether the alleged loan transaction took place prior to registration of the FIR in 2009 or thereafter. From pleadings it appears to be prior to year 2009 as after year 2009 relation had turned sour.

13. Moreover, in the present case, the agreement to sell dated 02.06.2011 was admittedly executed on stamp papers which as per the evidence on record, were purchased on 31.05.2011 and there is absolutely no explanation forthcoming from the appellant-defendant as to how his signatures could appear on stamp papers, if, according to him, the blank papers had allegedly been signed prior to the year 2009. The presence of the defendant's signatures on stamp papers purchased only on 31.05.2011 completely demolishes and falsifies the defence sought to be raised by him. The entire story put forth by the appellant-defendant is vague, unsupported by particulars, and not established by any cogent or reliable evidence.

14. Accordingly, the plea regarding registration of the FIR appears to have been raised merely as an excuse to evade the legal consequences arising out of the agreement to sell dated 02.06.2011.

15. Faced with the above conclusion, learned counsel for the appellant-appellant-defendant argued that there was no reason for the agreement to sell to have been executed on 02.06.2011 when the stamp papers had already been purchased on 31.05.2011. However, the said contention is devoid of merit. The purchase of stamp papers prior to execution of the agreement to sell is a normal and natural course of conduct. Transactions relating to sale and purchase of immovable property ordinarily involve prior negotiations and consultations between the parties, and only after the parties arrive at a consensus regarding the terms and conditions the agreement is formally executed. Therefore, merely because the stamp papers were purchased on 31.05.2011, i.e. prior to execution of the agreement on 02.06.2011, the same cannot be treated as a suspicious circumstance. Rather, such conduct reflects a bona fide attempt by the parties to ensure smooth and hassle-free execution of the agreement.

16. Learned counsel for the appellant-defendant further referred to the evidence led by the appellant-defendant to show that the mother of the respondent-plaintiff had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 for making the payment of dishonoured cheque. However, the said circumstance is wholly irrelevant to the controversy involved in the present case. Admittedly, the agreement to sell in question is dated 02.06.2011 and the suit for specific performance had already been instituted in year 2008. Therefore, any transaction between the appellant-defendant and the plaintiff's mother pertaining to separate cause of action cannot create any doubt

regarding the genuineness or validity of the agreement to sell dated 02.06.2011.

17. It is also worth mentioning that the mother of the respondent-plaintiff had earlier issued a legal notice to the appellant-defendant under Section 138 of the Negotiable Instruments Act seeking payment in respect of a dishonoured cheque. The said notice, issued in the year 2008, was duly replied by the appellant-defendant through his reply Ex. DW1/P3. Significantly, in the said reply, the appellant-defendant did not take any plea whatsoever that he had handed over blank signed papers or blank stamp papers to the father of the respondent-plaintiff at the time of obtaining a loan of Rs. 1,50,000/-.

18. On the contrary, the stand taken by the appellant-defendant in the said reply was that the mother of the respondent-plaintiff was on visiting terms with the appellant-defendant and that she had removed a signed cheque from his house. This circumstance further demonstrates that the appellant-defendant has been taking inconsistent and false pleas from time to time according to his convenience, which are wholly incompatible with the defence now sought to be raised in order to avoid performance of the agreement to sell dated 02.06.2011.

19. The aforesaid litigation under Section 138 of the Negotiable Instruments Act was, therefore, an entirely separate and independent proceeding, and reliance upon the same by the appellant-defendant in the present case is wholly misconceived and appears to be a false attempt to create suspicion regarding the agreement in question.

20. Rather, it is own case of appellant-defendant that he had cordial relations with the family of the respondent-plaintiff and had borrowed money from the father of respondent-plaintiff. Thus, any borrowing from the mother of respondent would constitute an independent transaction having no bearing

whatsoever on the present proceedings.

21. The contention raised by learned counsel for the appellant-appellant-defendant that PW-1 was closely related to the respondent-plaintiff and that PW-2, being a numberdar, was a professional witness, is also without substance. Both the attesting witnesses were duly examined by the respondent-plaintiff. Merely because PW-1 was related to the respondent-plaintiff does not render his testimony unreliable or inadmissible, particularly when the appellant-defendant has not denied his signatures on the agreement to sell and has failed to establish any plausible defence explaining his signatures on the agreement, the receipt regarding earnest money, and the endorsement extending the time for execution of the sale deed.

22. Similarly, the mere fact that PW-2 was a numberdar does not make him a professional witness. In villages, it is a common and accepted practice to associate numberdars, Sarpanches and Panches as witnesses on agreements and other transactions between parties. Such persons are generally associated to ensure the presence of independent and respectable witnesses who are not closely related to either side. There is absolutely no evidence on record to suggest that PW-2 had any reason to falsely depose against the appellant-defendant. Rather, PW-2 appears to be an independent witness whose testimony inspires confidence.

23. Learned counsel for the appellant-defendant further argued that the respondent-plaintiff had failed to prove his financial capacity and had also failed to establish the source of Rs.7,22,000/- allegedly paid as earnest money as well as the remaining balance sale consideration.

24. Though, at first glance, the argument raised on behalf of the

appellant-defendant appears to be attractive, however, upon closer scrutiny the same deserves to be rejected. The respondent-plaintiff has duly proved payment of Rs. 7,22,000/- out of the total sale consideration of Rs.12,00,000/- by way of a receipt executed and signed by the appellant-defendant. Once the due execution of the receipt acknowledging payment is proved and accepted, the burden shifts upon the appellant-defendant to establish that the said amount was never received or that the respondent-plaintiff lacked the financial capacity to make such payment.

25. In the present case, the receipt acknowledging payment of Rs. 7,22,000/- out of the total consideration of Rs.12,00,000/- stands duly proved on record not only through the testimony of the attesting witnesses but also by virtue of the fact that the appellant-defendant has not denied his signatures on the said receipt. The explanation sought to be furnished by the appellant-defendant regarding his signatures has already been found to be false and unsubstantiated.

26. Once actual payment of earnest money stands established, the Courts are not ordinarily required to further enquire into the financial capacity of the respondent-plaintiff. The question of financial capacity assumes relevance only where there exists a genuine doubt regarding payment of the earnest money. However, where payment itself stands proved, the burden lies upon the appellant-defendant to establish that the respondent-plaintiff lacked the means to make such payment. No such evidence has been led in the present case. Therefore, the concurrent findings of fact recorded by both the Courts below cannot be faulted with.

27. The findings recorded by the learned Courts below are neither

erroneous nor perverse and are fully borne out from the pleadings and evidence led by the parties. The same, therefore, deserve to be affirmed. No substantial question of law or facts arises for consideration in the present appeal.

28. Accordingly, the appeal, being devoid of merit, is hereby dismissed.

29. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

11.05.2026 **(PARMOD GOYAL)**
manoj **JUDGE**

Whether speaking/reasoned Yes
Whether reportable Yes/No