**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****225****RSA-4824-2013 (O&M)****Date of decision: 07.05.2026****Parkash****...Appellant(s)****Vs.****Ram Chander and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

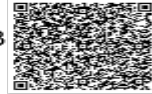
Present:- Mr. S.K.Garg, Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Ms. Sukriti Jain,
Mr. Shubham Goel and Mr. Nitin Sachdeva, Advocates
for the appellant.

Mr. Vicky Sharma, Advocate and
Mr. K.S.Dhaliwal, Advocate
for respondents No. 3, 4 and 6.

NIDHI GUPTA, J.

The plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned District Courts, whereby suit filed by the appellant for declaration and permanent injunction and possession, has been dismissed by both the District Courts.

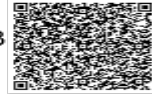
2. It is *inter alia* submitted by learned Senior Counsel for the appellant/plaintiff that the Ld. District Judge, Jind, has erred in law in recording the finding that the plaintiff/appellant has failed to prove any fraud being played by leading any cogent and reliable evidence. It is submitted that it is the specific case of the plaintiff that the fraud has been played with him by the defendants no. 1 & 2 and the plaintiff while appearing in the Court has filed his affidavit (Ex. PW-1/A) in which he has



specifically stated that the Sale Certificate dated 29.09.1983 has been got issued by playing fraud with the Court and no such auction has ever taken place. Even procedure required for auctioning land has not been followed. The entire auction proceedings is based on fraud and misrepresentation. Further, no suggestion has been put by the defendants to the plaintiff in his cross examination to falsify the plea of fraud taken by the plaintiff. Thus, once the plaintiff has discharged his initial onus to prove the fraud then the burden shifts upon the defendants to prove that the entire auction proceedings are genuine, which has not been discharged by them.

3. It is further submitted by learned Senior Counsel for the appellant that the finding recorded by the Ld. District Judge, Jind, that Thanna Ram (DW-1) categorically supported the version of contesting respondents/defendants that the auction was conducted as per procedure, is absolutely wrong, illegal and perverse because Thanna Ram who was the alleged eye witness of the auction proceedings, has admitted in his cross examination that, "*this auction was conducted for the recovery of government money as government was having loan outstanding toward Manphool*". He has further admitted that "*Self stated, the loan was taken from the government*". Meaning thereby that these facts clearly falsify the stand of the defendant that auction was witnessed by DW-1 Thana Ram.

4. Learned Senior Counsel for the appellant further submits that the finding recorded by the Ld. District Judge, Jind, that the instant suit filed by the plaintiff is barred by limitation, is absolutely wrong & perverse

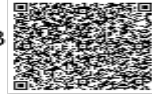


because Ld. Trial court while framing issues has framed specific issue no. 2 with regard to the limitation and the onus of that issue No. 2 was put on the defendant but while arguing the case the defendants have not pressed this issue and ultimately that issue was decided in favour of the plaintiff. Meaning thereby that in view of the finding recorded under issue no. 2, the finding recorded by the Ld. District Judge, Jind, that the suit is time barred is perverse and not sustainable.

5. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Id. District Courts be set aside.

6. *Per contra*, learned counsel for respondents No. 3, 4 and 6/defendants vehemently opposes submissions advanced on behalf of Id. Senior Counsel for the appellant and submits that concurrent findings of fact have been given in favour of the respondents that Sale Certificate was issued through Court process in favour of the defendants. There are concurrent findings of fact that nothing fraudulent could be found in the Sale Certificate. Appellant was very well aware of the recovery suit filed by the defendants against the father of the plaintiff. Thus, suit of the plaintiff is also barred by limitation. He accordingly prays for dismissal of the present Appeal.

7. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find merit in the submissions advanced on behalf of learned counsel for the respondents.



8. Perusal of the record of the case shows that previously a suit titled as “**Ballu etc. vs. Manphool**” was filed by the predecessor-in-interest of the defendants/respondents against Manphool/father of the plaintiff for recovery of Rs.5,000/-; which was decreed; in which suit property was attached and subsequently was sold and Sale Certificate dated 29.09.1983 Ex.P2 was issued during execution proceedings; and possession of the suit land was given to the auction purchaser. The said sale was confirmed upto this Court; whereafter even Mutation was sanctioned in favour of auction purchaser. However, ironically after the death of Manphool, his son/plaintiff has again laid challenge to the said proceedings; even though the said proceedings were never challenged by Manphool himself.

9. Learned District Judge, Jind in his judgment dated 03.10.2013 has given a positive finding that from the evidence on record it is “*crystal clear that the factum of sale was well within the knowledge of successors-in-interest of Manphool...*” It is further observed that Sale Certificate Ex.P2 was issued in the year 1983 and the present Civil Suit was filed in the year 2008. Therefore, by no stretch of imagination, can it be held that suit is within limitation.

10. Learned Senior Counsel for the appellant is unable to controvert or dispute the above said facts and findings.

11. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned District Courts below. The present Regular Second Appeal is hereby **dismissed**.

12. Pending applications, if any, stand disposed of.

07.05.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No