



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

RSA No.2083 of 2015 (O&M)

Date of decision : 26.02.2026

Amandeep Singh through his GPA Sh. Jasbir Singh

....Appellant

Versus

Dilawar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. R.S. Randhawa, Sr. Advocate with
Ms. Tarranum Madan, Advocate and
Mr. Swayam Bansal, Advocate for the appellant.

Mr. L.S. Sidhu, Advocate and
Mr. Nachhadar, Advocate for respondent No.1.

PANKAJ JAIN, J. (ORAL)

Defendant No.2, who is subsequent purchaser, is in second appeal.

2. Plaintiff filed suit for possession by way of specific performance of agreement to sell dated 21.12.2000.

2.1. As per plaintiff, defendant No.1 Balbir Singh was the owner of the suit land measuring 8 Kanals as detailed out in the plaint. He vide written agreement to sell dated 21.12.2000 agreed to sell the land in favour of the plaintiff for Rs.1,50,000/- and received Rs.38,000/- as earnest money. Parties agreed to get the sale deed executed on or before 15.05.2003. 15.05.2003 was holiday. Next working day fell on 19.05.2003. Plaintiff claims that he remained present in in the office of Joint Sub Registrar,



Dharamkot along with balance sale consideration and requisite registration charges. Defendant No.1 failed to appear and did not execute the sale deed. Plaintiff instituted present suit on 10.05.2006 seeking decree of specific performance. During the pendency of the suit, defendant No.1 sold suit land to defendants No.2 and 3 vide sale deed dated 09.08.2006. The plaintiff amended the plaint. He seeks possession of the suit land by way of specific performance of agreement to sell dated 21.12.2000.

3. Suit was contested by the defendants. Defendants claimed that the agreement to sell was a result of forgery. Defendant had leased out land measuring 2 Acres 3 Kanals to the plaintiff for Rs.20,000/-. Plaintiff has misused blank stamp-papers for execution of agreement to sell.

4. In a separate written statement filed by defendant No.2, he pleaded that he along with his brother is a *bona fide* purchaser of the suit land vide sale deed dated 09.08.2006.

5. Suit filed by the plaintiff was put to trial by the Court of the First Instance, framing following issues:

- “1. Whether the plaintiff is entitled to possession as owner by way of specific performance of contract dated 21.12.2000 regarding sale of land measuring 8 kanals? OP
2. Whether the plaintiff remained ready and willing to perform his part of the contract? OPP
3. If issues No.1 and 2 are not proved, whether in the alternative plaintiff is entitled to recovery, as prayed for? OPP
4. Whether the plaintiff is entitled to injunction, as prayed for? OPP
5. Whether the suit is maintainable? OPD
6. Whether the plaintiff has not come with clean hands? OPD



7. Whether the alleged agreement is forged and fabricated? OPD.
8. Relief.”

6. After analysing evidence threadbare, Trial Court decided Issues No.1, 2, 3 and 7 collectively. Court of the First Instance found that the plaintiff successfully proved execution of agreement to sell dated 21.12.2000 in his favour by defendant Balbir Singh and proved his readiness & willingness. However, while deciding Issue No.7, the Court of the First Instance denied main relief of specific performance to the plaintiff and granted alternate relief, observing as under:

“19. In the present case, suit property consists of 8 Kanals 0 marla, which were alleged to be sold for a meager amount of Rs.1,50,000/- per acre. Whereas, rates of the immovable properties are high rocketing. Moreso, suit property was already transferred to defendants No.2 and 3 (through during the pendency of the suit). In such circumstances (with due respect), judgments cited by Ld. Counsel for the plaintiff are distinguishable and thus, are not applicable to the facts of the present case, as, if specific performance of agreement is enforced, defendants will be thrown out of their source of earning, which will certainly cause hardship to them. Consequently, the Court is of the view that it will not be equal and fair to grant specific performance of the Agreement, which will certainly involve some hardship on the defendant, which Balbir Singh (their predecessor) did not foresee while executing the agreement, in question. In such, compelling circumstances and keeping in view the ration of law laid down in the above said judgment, pronounced by Hon'ble Apex Court, this court is of the opinion that plaintiff is only found entitled for the alternative relief of return of Rs.38,000/- i.e. earnest money from the defendant No.1 (legal representatives of Balbir Singh) along



with a reasonable rate of interest @ 12% per annum from the date of transaction i.e. 21.12.2000 (as there was no condition of equal damages in the agreement in question) till date of suit and @ 6% per annum over the decretal amount from that date till actual realization of the entire amount.”

7. Dissatisfied with the alternate relief, plaintiff filed appeal.
8. Lower Appellate Court granted main relief to the plaintiff accepting the appeal, observing as under:

18. Plaintiff-appellant had sought a decree for possession as owner by way of specific performance of contract dated 21.12.2000 regarding sale of land measuring 8 kanals with 1/8th share in 3 HP motor, comprised of khasra No. 3M//13(8-0), khewat No. 37, khatauni No. 78 as per jamabandi for the year 1995-96, situated in area of village Fatehpur Kania, Tehsil and District Moga on payment of Rs. 1,50,000/- less Rs.38,000/- as earnest money with plea that Balbir Singh defendant No.1 (since deceased) had agreed to sell the property in dispute to him vide agreement dated 21.12.2000 Ex.P2. Defendant No.1 Balbir Singh was alive at that time and filed his written statement dated 09.08.2006 chiefly alleging that agreement is altogether forged and fabricated one. Defendant had neither got executed any alleged agreement nor received any earnest money from plaintiff. Actual facts are that defendant had taken a sum of Rs. 20,000/- on interest from plaintiff in presence of Nirmal Singh son of Lakhwinder Singh, resident of Jindra, District Moga. At that time, plaintiff had obtained signatures of defendant on blank papers. Defendant had given two acres 3 kanals of land on Theka to plaintiff in lieu of Rs.20,000/- and in lieu of interest. Plaintiff had been cultivating that land and now he has got prepared alleged agreement in collusion with marginal witnesses and scribe. It is crystal clear from stand taken by deceased Balbir Singh that he had never pleaded that if specific performance of contract is allowed, it will



cause him hardship which he did not foresee at the time of execution of the agreement in question. As per findings of lower court, execution of agreement in question and payment of Rs.38,000/- stands fully proved and that finding had not been challenged by respondents-defendants. It is thus, found that observations of learned lower court are without any basis.

19. Looking the matter from one more angle, observation of lower court are found not to be sustainable, because it is admitted as well as proved fact that during pendency of this suit i.e on 09.08.2006 just after three months of the suit and despite a restraint order passed by court on 10.05.2006, Balbir Singh had sold suit land to defendant No.2, who had taken plea of bonafide purchaser. None of subsequent vendees has come to prove the plea of bonafide purchaser. Otherwise that transaction was hit by rule of lis pendens and such conduct of parties should not be encouraged. Once Balbir Singh himself had sold the property in dispute during pendency of suit despite restraint order, finding of learned lower court that predecessor of Gurmeet Kaur etc i.e. Balbir Singh deceased had not foreseen hardship are altogether erroneous. Paramjit Singh one of the legal heir of Balbir Singh, defendant No. 1 had stepped into witness box as DW1 and has admitted in clear and candid words that his father had entered into an agreement for sale of land measuring 8 kanals along 1/8th share of motor with plaintiff though he had tried to wriggle out by volunteering that such thumb impression of his father was obtained on blank papers. Except for mere allegations putting story of thumb impression on blank papers, there is no concrete evidence to prove this fact.

20. Nirmal Singh DW2 has been examined by defendant to establish theory of thumb impressions on blank papers. He has stepped into witness box on 26.09.2012. Agreement in question is dated 21.12.2000 and it is strange to note that Balbir Singh had never lodged any protest against plaintiff for this act nor filed any complaint. Therefore, I am of the considered view that there was no plea of hardship. Plea of hardship is otherwise not sustainable, once Balbir Singh had already sold the property in dispute during pendency of case despite restraint order. Therefore, it can be safely

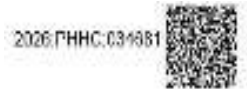


concluded that impugned judgment is perverse and not based on correct appreciation of facts and law.

9. Learned Senior Counsel appearing for the defendant submits that the agreement to sell was executed on 21.12.2000. As per the plaintiff, date of execution of sale deed was agreed to be 15.05.2003. The present suit was filed on 10.05.2006. Thus, the plaintiff cannot claim main relief of specific performance. Court of the First Instance rightly exercised discretion and decreed his suit for alternate relief which has been wrongly reversed by the Lower Appellate Court without any reason.

10. I have heard counsel for the parties and have carefully gone through records of the case.

11. From the records, it is discernible that the Court of the First Instance answered issue w.r.t. execution of agreement to sell and readiness & willingness in favour of the plaintiff. Suit filed by the plaintiff was decreed though for alternate relief. Defendants preferred not to file any appeal. Thus, in these circumstances, defendants cannot be allowed to turn around and dispute the findings recorded by the Courts below *qua* execution of agreement to sell and readiness & willingness of the plaintiff. Appellant herein is a transferee *pendente lite*. He cannot claim to be a *bona fide* purchaser. That apart, none of the purchasers entered into the witness box to prove that they are *bona fide* purchasers for consideration.



12. In view of above, this Court finds no reason to interfere in the well reasoned findings recorded by the Lower Appellate Court decreeing the suit filed by the plaintiff for main relief.
13. Finding no merit in the present appeal, the same is ordered to be dismissed.
14. Pending application, if any, shall also stands disposed off.

February 26, 2026

Dpr

Whether speaking/reasoned

Whether reportable

(Pankaj Jain)

Judge

: Yes/No

: Yes/No



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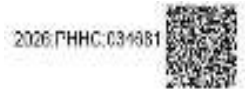


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Judge