



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

**RSA-3995-2023 (O&M)
Date of Decision: 11.03.2026**

SWARAN SINGH AND ANOTHER

..... Appellants

VERSUS

PAL SINGH @ PALA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Sherry K. Singla, Advocate with
Mr. Sunny K. Singla, Advocate
for the appellants.

YASHVIR SINGH RATHOR, J. (Oral)

1. This Regular Second Appeal is directed against the judgment and decree dated 08.09.2021 passed by the Court of learned Additional District Judge, Patiala, whereby the appeal filed against the judgment and decree dated 14.09.2017 passed by learned Civil Judge (Junior Division), Patiala in civil suit bearing No.207T of 2011, whereby the suit for declaration and permanent injunction filed by the plaintiff Gursewak Singh (since deceased) was dismissed, has been dismissed.

2. I have heard learned counsel for the appellants and have gone through the material on record.

3. As per version of plaintiff-Gursewak Singh, late Smt. Piaro had executed a Will dated 02.01.1995 in his favour bequeathing the suit



property and on the basis of said Will, he claimed to be owner of the suit property. However, said Smt. Piaro had sold the suit property comprising 14 bighas of land in Khewat No.1, Khatoni No.5, Khasra No.16(5-18), 17(5-1) and 20(3-1), situated at village Marrupur, District Patiala, vide sale deed dated 18.03.1998 in favour of Pal Singh @ Pala. Besides this, said Pal Singh @ Pala, in his capacity as General Power of Attorney holder of Smt. Piaro, sold the remaining land comprising Khewat No.1, Khatoni No.6, Khasra Nos.18(6-5), 19(6-5), 21 min(1-11) vide sale deed dated 20.04.1998 in favour of Karnail Singh. Subsequently, Pal Singh @ Pala executed sale deed dated 10.05.2005 in respect of 14 bighas of land in Khewat No.1, Khatoni No.5, Khasra Nos.16(5-18), 17(5-1) and 20(3-1) in favour of Mohinder Singh, Joginder Singh, Sukhdev Singh and Amarjit Singh. Similarly, Karnail Singh executed sale deed dated 10.05.2005 in respect of 12 bighas of land in Khewat No.1, Khatoni No.6, Khasra Nos.18(6-5), 19(6-5) and 21 min (1-11) in favour of Mohinder Singh, Joginder Singh, Sukhdev Singh and Amarjit Singh. Thereafter, Mohinder Singh, Joginder Singh, Sukhdev Singh and Amarjit Singh executed sale deeds dated 10.05.2006 and 10.08.2011 in respect of 14 bighas of land in Khewat No.1/1, Khatoni No.5, Khasra Nos.16(5-18), 17(5-1) and 30(3-1) and 14 bighas 1 biswa of land in Khatoni No.6, Khasra Nos.18(6-5), 19(6-5) and 21/1/1 (1-11), out of which 240/281 share, i.e. 12 bighas of land, was transferred in favour of Gursewak Singh



and Jagdev Singh. Plaintiff claimed that all these sale deeds are illegal, null and void.

4. From the pleadings of the parties, following issues were framed by the learned trial Court:-

1. *Whether the plaintiff is entitled to relief of declaration as prayed for? OPP*
2. *Whether the Will dated 02.01.1995 has been executed by late Piaro in favour of plaintiff? OPP*
3. *Whether the plaintiff is entitled to consequential relief of possession, as prayed for? OPP*
4. *Whether the sale deed dated 18.03.1998 executed by Piaro in favour of Pal Singh is illegal, null and void, as prayed for? OPP*
5. *Whether the sale deed dated 20.04.1998 executed by Pal Singh as general power of attorney of Piaro in favour of Karnail Singh is illegal, null and void, as prayed for? OPP*
6. *Whether the sale deed dated 10.05 2005 executed by Pala Singh in favour of Mohinder Singh, Joginder Singh, Sukhdev Singh and Amarjit Singh is illegal, null and void, as prayed for? OPP*
7. *Whether the sale deed dated 10.05.2005 executed by Karnail Singh in favour of Mohinder Singh, Joginder Singh, Sukhdev Singh and Amarjit Singh is illegal, null and void, as prayed for? OPP*
8. *Whether the sale deed dated 10.08.2011 executed by Mohinder Singh, Joginder Singh, Sukhdev Singh and Amarjit Singh in favour of Gursewak Singh and Jagdev Singh is illegal, null and void, as prayed for? OPP*
9. *Whether the plaintiff is entitled to relief of permanent injunction, as prayed for? OPP*
10. *Whether the suit is not maintainable in the present form? OPD*



11. *Whether the plaintiff has no locus-standi to file the present suit? OPD*
12. *Whether the suit is barred under section 11 CPC? OPD*
13. *Whether the ad valorem court fee has not been affixed on the plaint, if so its effect? OPD*
14. *Relief.*

5. Thereafter, both the parties led their evidence.

6. Both the Courts below have arrived at a concurrent finding that Smt. Piaro had sold the suit property during her lifetime and as such, plaintiff could not have inherited the suit land on the basis of Will dated 02.01.1995 executed by her in his favour. It was also held that even Smt. Piaro had challenged the sale deeds and suit filed by her was also dismissed vide judgment and decree dated 27.08.2014 by learned Civil Judge (Junior Division), Patiala as no fraud had been played upon her by the purchasers. Since, Smt. Piaro had herself challenged the sale deeds and had failed to prove the allegations of fraud or undue influence, the sale deeds executed by her were held to be valid and lawful and LR's of plaintiff, who are appellants in present case, thus did not have any locus standi to challenge the sale deeds executed by her and Will will not confer any right, title or interest in favour of plaintiff.

7. As such, the findings arrived at by both the Courts below thus do not suffer from any infirmity or illegality much less perversity or error in law or procedure and there is thus no reason to take a contrary



view and to interfere with the concurrent findings of facts recorded by both the Courts below. It is well settled that in Regular Second Appeal, this Court has limited jurisdiction to interfere in the concurrent findings of facts returned by both the Courts below. Hon'ble Supreme Court in Law Finder Doc Id # 2034559 - *M/s. Shivali Enterprises v. Godawari (Deceased) (SC)*; has 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.”
(Emphasis added)

8. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees passed by the learned Trial Court and the Appellate Court and the present Regular Second Appeal is hereby dismissed.
9. Pending misc application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

11.03.2026
Priyanka Thakur

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No