

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

RSA-3880-2025 (O&M)
Date of decision: 07.04.2026

Aganwati @ Jaganwati (now deceased) through her LRs ...Appellants

Versus

Raj Kumar and another ...Respondents

Reserved on: 06.04.2026
Pronounced on: 07.04.2026
Pronounced fully/operative part: Fully

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Rajesh Arora, Advocate for the appellants.

DEEPAK GUPTA, J. (ORAL)

The defendants-appellants have approached this Court by way of the present Regular Second Appeal assailing the concurrent judgments & decrees passed by the learned Trial Court dated 22.02.2024, and affirmed by the learned First Appellate Court on 15.10.2025, whereby the suit filed by the plaintiffs for possession by way of specific performance of agreement to sell has been decreed.

2. The case of the plaintiffs, in brief, is that the defendant, being owner in possession of the suit property, entered into an agreement to sell dated 12.06.2017 in their favour for a total sale consideration of ₹40,00,000/-. At the time of execution of the agreement, a sum of ₹18,00,000/- was paid as earnest money. The date for execution and registration of the sale deed was fixed as 12.06.2018. It has further been pleaded that on account of certain difficulties expressed by the defendant, the date for execution of the sale deed was extended up to 12.12.2018 upon payment of an additional sum of ₹2,00,000/-. The plaintiffs asserted that they remained ready and willing to perform their part of the contract and even appeared before the Sub Registrar on the stipulated date with the balance sale consideration, but the defendant failed to perform her part, compelling them to institute the present suit.



3. The defence set up by the appellants - defendants is that no agreement to sell was intended between the parties and the alleged agreement was in fact executed as a security for a loan transaction. It is their case that the defendant had borrowed a sum of ₹15,00,000/- from the plaintiffs and the amount reflected in the agreement included future interest, and therefore, the document cannot be treated as an agreement to sell.

4. On the basis of pleadings, issues were framed and the parties led their respective evidence. The learned Trial Court, upon appreciation of the evidence on record, decreed the suit of the plaintiffs. The appeal preferred by the defendants was dismissed by the learned First Appellate Court, which affirmed the findings recorded by the Trial Court.

5. Learned counsel for the appellants has reiterated before this Court that the courts below have failed to appreciate that the transaction in question was merely a loan transaction and the agreement was executed as a security. It has further been argued that the affidavit of one of the attesting witnesses supports the defence version. It is also contended that the extension of time for performance resulted in novation under Section 62 of the Indian Contract Act 1872. Additionally, it has been argued that there was no subsisting loan on the property and, therefore, there was no occasion for execution of any extension agreement.

6. I have heard learned counsel for the appellants and have gone through the judgments of the courts below as well as the paper-book with due care.

7. At the outset, it is to be noted that both the courts below have returned concurrent findings of fact with regard to the execution of the agreement to sell, passing of consideration, and readiness and willingness of the plaintiffs. It is a settled proposition that such concurrent findings cannot be interfered with in second appeal unless shown to be perverse or based on misreading of evidence.

8. In the present case, the execution of the agreement to sell and the receipts has been duly proved by the plaintiffs through cogent evidence including the testimony of the scribe and attesting witnesses. Their



statements inspire confidence and remain unshaken in cross-examination. Significantly, the execution of the documents has not been specifically denied by the defendant side.

9. The plea of the appellants that the agreement was executed as a security for a loan transaction has rightly been disbelieved by the courts below. Except for a bald assertion, no reliable evidence has been brought on record to substantiate the said plea. The reliance placed upon the affidavit of an attesting witness is wholly misconceived, as the said witness did not enter the witness box and the affidavit was never subjected to cross-examination. Such material cannot be read in evidence. Even otherwise, discrepancies noticed in the said affidavit further render it unreliable .

10. Similarly, the testimony of DW2, who is the son of the defendant and an attesting witness to the agreement, has rightly been discarded. Being an interested witness, his version does not inspire confidence, particularly when he admits execution of the documents and is sufficiently literate to understand their contents.

11. The argument regarding novation of contract under Section 62 of the Indian Contract Act is equally devoid of merit. A mere extension of time for performance does not amount to substitution of contract. There is nothing on record to indicate that the parties intended to extinguish the original agreement. The essential terms remained unchanged and only the time for performance was extended by mutual consent. Thus, the original agreement continued to subsist.

12. The additional contention raised by the appellants that there was no loan subsisting on the property and, therefore, there was no question of executing the extension agreement also does not advance their case. The validity of an extension of time is not dependent upon the existence of any encumbrance or loan over the property. Parties to a contract are always competent to mutually extend the time for performance for any reason they deem appropriate.

13. In the present case, the plaintiffs have explained the circumstances under which the extension was agreed upon and have also



proved payment of an additional amount of ₹2,00,000/- at the time of such extension. The execution of the extension endorsement and receipt of consideration stands duly established on record and has been concurrently accepted by both the courts below. Once the extension agreement is proved, the precise reason for such extension loses significance.

14. Even otherwise, the First Appellate Court has noticed from the revenue record the existence of a loan entry pertaining to the suit property, thereby lending support to the plaintiffs' version regarding the necessity of clearing such liability. The appellants have failed to produce any convincing material to rebut the said documentary evidence. Thus, the argument that absence of loan invalidates the extension agreement is untenable.

15. Further, the plaintiffs have duly established their readiness and willingness to perform their part of the contract by leading cogent evidence, including their presence before the Sub Registrar on the due date and issuance of legal notice.

16. In view of the aforesaid discussion, this Court finds that the findings recorded by the courts below are based on proper appreciation of evidence and settled legal principles. No perversity or illegality has been pointed out so as to warrant interference under Section 100 CPC.

17. No substantial question of law arises for consideration in the present appeal. Consequently, the present Regular Second Appeal is dismissed, being devoid of merit. The judgments and decrees passed by the courts below are affirmed. No order as to costs.

07.04.2026

Yogesh

**(DEEPAK GUPTA)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:-

Yes/No

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