



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

RSA-893-1991(O&M)

LAKHI RAM AND OTHERS

...Petitioner(s)

Versus

**BABU RAM (SINCE DECEASED) THROUGH LEGAL HEIRS AND
ANOTHER**

...Respondent(s)

| | | |
|----|--|----------------|
| 1. | The date when the judgment is reserved | 22.01.2026 |
| 2. | The date when the judgment is pronounced | 27.03.2026 |
| 3. | The date when the judgment is uploaded on the website | 27.03.2026 |
| 4. | Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced | Full |
| 5. | The delay, if any, of the pronouncement of full judgment, and reasons thereof | Not Applicable |

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Vaibhav Sharma, Advocate and
Mr. Harit Narang, Advocate for the appellants.

Dr. Pankaj Nanhera, Senior Advocate with
Mr. Nitin Verma, Advocate, Mr. Anurag Mor, Advocate and
Mr. Navneet Sharma, Advocate
for the respondents.

TRIBHUVAN DAHIYA, J.

CM-1527-C-2024

The application has been filed by the appellants under Order 41 Rule 27 of the Civil Procedure Code, 1908, for permission to place additional evidence on record, i.e., revenue record (jamabandis and khasra girdawaris) for 1983-84, 1988-89, 1993-94, 1998-99, 2003-04, 2008-09, 2013-14 and 2018-19, as Annexure-A. This is to show continuance of possession of the suit land with them.



2. Notice of the application was issued to learned counsel for the non-applicant/respondent/plaintiff, now represented through his legal representatives, but no reply has been filed on their behalf disputing the facts mentioned in the application.

3. In view thereof, the application is allowed and the aforementioned revenue record/jamabandis and khasra girdawaris are taken on record as Annexure-A by way of additional evidence.

Main Case

This is defendants/appellants' second appeal against the judgment, dated 28.08.1990, passed by learned Sub-judge Ist Class, Faridabad/trial Court, and the judgment and decree dated 04.03.1991, passed by learned Additional District Judge, Faridabad/lower appellate Court.

2. The respondent/plaintiff filed a suit for permanent injunction restraining the appellants/defendants from interfering into his possession over the agricultural land measuring 14 kanals and 7 marlas comprised in khewat/khatoni no.32/53 as per jamabandi for the year 1978-79 and khewat/khata no.31/54 as per jamabandi for the year 1983-84, rectangle no.12, kila no.16(7-3) and 25(7-3) situated in revenue estate of village Hirapur Tehsil Ballabgarh. He claimed possession over this land as it had initially been mortgaged to him by defendant no.1 vide registered mortgage deed dated 31.01.1984, Exhibit P-1, for a consideration of ₹28,000. Thereafter, defendant no.1 sold this land to him vide registered sale deed dated 12.03.1984, Exhibit P-2, and ever since the latter is continuing in possession as owner of the land.

2.1. Defendant no.1/Tek Chand filed a written statement denying execution of the mortgage deed as well as the sale deed. He also alleged that these deeds were a result of fraud having been played by the



respondent/plaintiff and were executed under undue influence. He further pleaded that his son Ram Gopal had challenged the said mortgage deed as well as sale deed by filing civil suit no.518 of 28.07.1984 which was decided on 28.09.1984, and both the deeds were declared null and void on the basis of a compromise arrived at between the parties, dated 27.09.1985, Exhibit D-5. After cancellation of these deeds, he was at liberty to alienate the suit land which he, in fact, did by way of two separate registered sale deeds in favour of defendants no.2 to 5. The first sale deed, dated 16.11.1984, pertains to land in khasra no.12/25 measuring 7 kanals 3 marlas for a sale consideration of ₹35,000; and the second sale deed, dated 14.02.1986, pertains to land in khasra no.12/16 for a sale consideration of ₹17,500. Accordingly, the respondent/plaintiff had no right to file the suit. Defendant no.1, however, did not appear in the Court thereafter and was proceeded against ex-parte.

2.2. Defendants no.2 to 5, appellants herein, filed a joint written statement denying the mortgage deed as well as sale deed of the suit land in favour of the respondent/plaintiff. Both these documents had been declared null and void by the civil Court in civil suit no.518 on 28.09.1984, as aforementioned. Subsequently, they had purchased 11 kanals and 3 marlas of land out of the suit land for a sale consideration of ₹52,500 vide registered sale deeds as detailed in the previous paragraph, and ever since they had been continuing in possession over the land as owners. Therefore, the suit was not maintainable, and deserved dismissal.

2.3. The respondent/plaintiff filed a replication reiterating the averments of the plaint, but admitted passing of the judgment and decree dated 28.09.1984 in civil suit no.518 of 28.07.1984. He, however, claimed that the mortgage deed and the sale deed in question were never cancelled by



the same. On these pleadings, the following issues were framed by the trial Court:

1. Whether the plaintiff is the owner in possession of the suit land? OPP.
2. Whether the plaintiff has no locus-standi to file the suit? OPD.
3. Whether the plaintiff is estopped from filing the present suit? OPD.
4. Whether the defendants are entitled to special costs? OPD.
5. Whether the defendant no.1 was entrapped and brought under undue influence by the plaintiff, if so to what effect? OPD.
6. Whether the sale deed dated 12.03.1984 and mortgage dated 31.01.1984 have been declared to be null and void? OPD.
7. Relief.

The respondent/plaintiff led his evidence by examining Sarvan Kumar Bansal, Deed Writer as PW1, and the attesting witness Hari Singh as PW2 to prove execution of the deeds. He also examined Shri Ram, plaintiff's Special Attorney as PW3. Defendants no.2 to 5 examined Chhaju Ram, one of the defendants as DW1, followed by Balla as DW2, Risal as DW3 and Dharampal, Deed Writer as DW4.

2.4. Considering the evidence on record, the trial Court decreed the suit vide judgment dated 28.08.1990; it decided issue nos. 1, 3 and 6 together and answered the same holding that the plaintiff was owner in possession of the land in dispute and was not estopped from filing the suit seeking relief of injunction against the defendants. And that mortgage deed dated 31.01.1984 and sale deed dated 12.03.1984 could not be taken to have been declared null and void *qua* the vendor in any way. On issue no.2, it was held that the plaintiff had the *locus standi* to file the suit, and the issue was accordingly decided in his favour. Issue no.4 was decided against the defendants, holding



that they were not entitled to special costs. Issue no.5 was also decided in favour of the plaintiff while holding that there was no evidence to establish that defendant no.1 was under the influence of the plaintiff at the time of execution of the mortgage deed and the sale deed. In appeal, the lower Appellate Court affirmed the decree vide judgment dated 04.03.1991, without giving issue-wise findings. In this manner, all these issues were decided in plaintiff's favour.

3. Learned counsel for the appellants has challenged the findings recorded by the Courts below concerning issues no.1, 3 and 6. *Firstly*, he contended that a simpliciter suit for permanent injunction filed by the respondent/plaintiff was not maintainable, and could not have even been entertained by the Courts below. The plaintiff has not been in possession of the suit land, nor is there any document on record to establish the fact even *prima facie*. He has claimed possession on the basis of sale deed dated 12.03.1984, which in itself is not a document sufficient to establish possession and the law to that effect has already been settled. It has also been asserted that the appellants have throughout been in continuous possession over the suit land after its purchase by way of registered sale deeds from defendant no.1, father of Ram Gopal. These facts stand established from jamabandis and khasra girdawaris placed on record by way of additional evidence as Annexure-A. In support of the submission, he has relied upon the Supreme Court judgments in *Sanjay Paliwal and others v. Bharat Heavy Electricals Limited*, 2026 SCC Online SC 83, and *Kayalulla Parambath Moidu Haji v. Namboodiyil Vinodan*, (2020) 20 SCC 310. *Secondly*, he contended that this is a case of complete misreading of evidence by the Courts below. It remains admitted on record that the sale deed, dated 12.03.1984, was challenged by



Ram Gopal, son of defendant no.1, by filing civil suit no.518 of 28.07.1984, which was decreed in terms of a compromise effected between the parties. The respondent/plaintiff was a party to the suit, as also to the compromise dated 27.09.1985, wherein he willingly gave up his rights for the land in dispute and also admitted that he was not in possession. The suit was decreed in terms of the compromise declaring the sale deed as null and void which would have no effect on the rights of Ram Gopal and other legal heirs of defendant no.1. In the face of this decree, the respondent/plaintiff cannot claim any right, title or possession over the suit land. This fact has been glossed over by the Courts below, and they have presumed plaintiff's possession over the suit land ignoring the evidence to the contrary on record.

4. *Per Contra*, learned counsel for the respondent/plaintiff contended that the plaintiff has been in possession of the suit land ever since execution of the sale deed in his favour by defendant no.1. The judgment and decree dated 28.09.1984, passed in civil suit no.518 of 28.07.1984 filed by Ram Gopal, has no bearing on the plaintiff's rights over the suit land. The said judgment is declaratory in nature and only secures reversionary rights to the plaintiff therein, Ram Gopal. It entitles him to get complete rights in the estate of defendant no.1 and does not wipe out the alienation of property in favour of the plaintiff, as held by the lower appellate Court. The findings are well reasoned and in consonance with the settled law that a declaratory decree does not completely wipe out the alienation. Its effect is only that alienation is not binding against inheritance, irrespective of the form of the decree. Therefore, the appeal deserves to be dismissed.

5. Submissions made by learned counsel for the parties have been considered.



6. The question of law arising for consideration is, whether findings recorded by the Courts below are perverse being contrary to the record.

7. The undisputed facts on record are that the suit land was originally mortgaged by defendant no.1 to the respondent/plaintiff vide registered mortgage deed dated 31.01.1984, and thereafter it was sold to him vide registered sale deed dated 12.03.1984. These two documents/deeds were challenged by Ram Gopal son of defendant no.1, by filing a suit for declaration claiming that the same were illegal and void, and not binding on the rights of the plaintiff therein and legal heirs of defendant no.1. The present plaintiff/respondent, Babu Ram, was impleaded as defendant no.7 to the said suit. A compromise dated 27.09.1984 was entered into between the parties thereto, with Babu Ram as one of the signatories. Based upon the compromise, the suit was decreed vide judgment dated 28.09.1984, which reads as under:

Copy of Judgment

The plaintiff has filed this suit praying for a decree for declaration to the effect that transactions of sale and mortgage detailed and described in para no.4 of the plaint in respect of the suit properties, detailed in para no.1 and 2 of the plaint, are null and void and are not binding upon the rights of the plaintiff and legal heirs and successors-in-interest of defendant no.1.

2. Defendant no.5 and 6 were given up by Shri B. L. Gupta Advocate for the plaintiff by making own statement in this behalf today in the Court.

3. The remaining defendants made the statement, to the effect that compromise Ex.C-1 was correct and that the suit should be decided as per the same. They further made the statement that the suit with regard to 14 kanals 6 marlas of land as given in this compromise should be decreed against defendant no.7.



4. The plaintiff's counsel and Smt. Kinna Next friend of the minor plaintiff also made a joint statement to the same effect.

5. In view of this compromise, the suit of the plaintiff is decreed against defendant no.7 and a decree for declaration is accordingly passed to the effect that sale of killa no.12/16 (7 kanals 3 marlas, 25 (7 kanals 3 marlas, total measuring 14 kanals 6 marlas which took place on 12.03.1984 for a sum of Rs.45,000 and also the mortgage deed in respect of this very land for a sum of Rs.28,000 which took place on 31.01.1984 are null and void and the same will not effect the rights of the plaintiff or any other legal heirs of defendant no.1. In the circumstances, the parties are left to bear their own costs/decreed sheet be drawn accordingly and file be consigned to record room.

Announced in open Court.

Sd/-

28th of September, 1984.

Senior Sub Judge,
Faridabad.

7.1. A perusal of the aforesaid judgment makes it explicit that the respondent/plaintiff herein was arrayed as defendant no.7, and a statement was recorded on his behalf that the suit with regard to 14 kanals and 6 marlas of land, as mentioned in the compromise, be decreed against him. In terms of this judgment the mortgage deed dated 31.01.1984 and the sale deed dated 12.03.1984, executed by defendant no.1/Tek Chand in his favour, were declared null and void, having no effect upon the rights of the plaintiff/Ram Gopal or any other legal heir of Tek Chand. Accordingly, sale deed in favour of the respondent/plaintiff, dated 12.03.1984, based upon which he is claiming possession over the suit land and the consequent entitlement to file the instant suit for permanent injunction, became a nullity, and no right, title or interest could be claimed by him on that basis. The lower Appellate Court has gone completely against the record in recording that "*(b)y the previous suit, Tek Chand had not received any right and in fact even the mortgage deed and sale*



deed have not been declared null and void and the only effect of the decree was that mortgage deed and sale deed had no effect on the reversionary rights of the plaintiff and other legal heirs of defendant no.1 and this has been stated so in clear words in the judgment as well as in the decree (khasragirdawari Exhibits P-6 and P-7". Since the documents, mortgage deed as well as sale deed, had been explicitly declared null and void vide the judgment and decree dated 28.09.1984, there was no occasion for the lower Appellate Court to record that the same had not been declared so, or to misconstrue the plain words and read something into them which had neither been conveyed nor intended in any manner - that the said deeds would not have any effect on reversionary rights of the plaintiff and other legal heirs. The decree not only declares these deeds null and void unconditionally, it also holds that the same would not have any effect on the rights of the plaintiff/Ram Gopal or any other legal heir of defendant no.1. Furthermore, the respondent/plaintiff herein had also made a statement that the suit with respect to the land in dispute be decreed against him. The decree, accordingly, is not a declaration to the effect that alienation of the property by defendant no.1 in favour of the respondent/plaintiff will not affect reversionary rights of Ram Gopal and other legal heirs. Instead, the mortgage deed as well as the sale deed have clearly been declared null and void, which takes away the rights, if any, transferred to the respondent/plaintiff under those documents. And he has no basis to claim possession alluding to the same, which renders his suit not maintainable.

8. Another question of law arising for consideration is, whether a suit for permanent injunction simpliciter is maintainable. It is pertinent to mention that the respondent/plaintiff claims to be in possession over the suit land as owner on the basis of sale deed dated 12.03.1984. The said claim has



been disputed by defendants no.2 to 5/appellants on the ground that the sale deed stood cancelled in terms of the civil suit decree dated 28.09.1984. Subsequently, the land in question was sold to them vide registered sale deeds dated 16.11.1984 and 14.02.1986, and ever since they have continued to remain in possession as owners. Apparently, there existed a strong disagreement over title as well as possession of the suit land, and therefore a suit for permanent injunction, without seeking possession, would not be maintainable in such circumstances. The law to that effect has been settled in *Sanjay Paliwal* case (supra), holding that in cases where there is a dispute over title and possession of the suit property, a simpliciter suit for permanent injunction is barred under Section 41(h) of the Specific Relief Act, 1963. The observations of the Supreme Court are as under:

22. In the present case, as noticed hereinabove, there exists a serious dispute with regard to title, the question that arose was whether the plaintiffs had derived a valid and enforceable title from their predecessors-in-interest. Even assuming, *arguendo*, that the plaintiffs possess a valid title, the High Court has rightly held that where there is a construction raised on the disputed property alleged to be owned by the plaintiffs, the appropriate and efficacious remedy available to them was to institute a suit for possession along with a consequential relief of injunction, and not a suit for injunction simpliciter.

23. Thus, upon applying the aforesaid principles, the High Court has rightly held that the plaintiffs' suit was barred under section 41(h) of the Specific Relief Act, 1963, inasmuch as the plaintiffs failed to seek the relief of possession despite the existence of a cloud over possession of the disputed property. The suit for injunction simpliciter was, therefore, not maintainable.

Accordingly, the suit for permanent injunction without seeking possession filed by the respondent/plaintiff could not have been entertained.



9. In view of the discussion, the appeal is allowed. Findings of the Courts below on issues no.1, 3 and 6, are hereby set aside. As a consequence, findings on the remaining ancillary issues are also set aside, and the suit is dismissed with costs.

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

(TRIBHUVAN DAHIYA)
JUDGE

27.03.2026

Ad

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No