



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

**Reserved on 11th of May, 2026
Pronounced on 7th of August, 2026
Uploaded on 8th of August, 2026**

Whether only operative part of the judgment is pronounced?	No
Whether full judgment is pronounced?	Yes

RSA No.402 of 2012 (O&M)

Lachhman Dass (deceased) through LRAppellant

Versus

Anil Sharma and others ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sarju Puri, Senior Advocate with
Ms. Damanpreet Kaur, Advocate
for the appellant.

Mr. Kanwal Jit Singh, Senior Advocate with
Ms. Muskan Sharma, Advocate
for the respondent.

PANKAJ JAIN, J.

Defendant is in second appeal.

2. For convenience and to avoid confusion, the parties are hereinafter are referred to as by their original position before the Court of First Instance i.e., the appellant as ‘defendant’ and the respondent as ‘plaintiff’.



3. The plaintiff filed a suit for specific performance of the agreement to sell dated 03.12.2002, pertaining to land measuring 5 Kanals, as detailed out in the head note of the plaint.

3.1. As per plaintiff, defendant vide written agreement to sell dated 03.12.2002 agreed to sell 5 Kanals of land in his favour for a total sale consideration of Rs.7,00,000/-. Rs.6,00,000/- was paid as earnest money on the date of execution of the agreement to sell. Parties agreed to get the sale deed executed on or before 03.11.2003. As per plaintiff, he always remained ready and willing to perform his part of the agreement and remained present before the Sub Registrar on the appointed date. Defendant, however, failed to appear before the Sub Registrar to execute the sale deed. Plaintiff instituted present suit on 06.12.2003 seeking specific performance of agreement to sell.

4. Defendant contested the suit. Execution of agreement to sell dated 03.12.2002 propounded by the plaintiff, is denied. Defendant claims the same to be a forged and fabricated document which is result of fraud and misrepresentation and is without consideration. Defendant denied receipt of earnest money of Rs.6,00,000/-. Defendant further claims that the value of the property, in dispute, on the date of execution of agreement to sell, was Rs.40,00,000/- and no prudent man would agree to sell the same for Rs.7,00,000/-.



5. The Court of the First Instance tried the suit filed by the plaintiff, on the following Issues:

- “1. Whether defendant has executed agreement to sell dated 3.12.02 in favour of plaintiff? OPP.
2. Whether plaintiff remained willing and ready and is still ready and willing to perform his part of contract? OPP
3. Whether plaintiff is entitled to specific performance of the agreement to sell? OPP
4. Whether in the alternative plaintiff is entitled to recovery of Rs. 12.00 lacs i.e. refund of earnest money alongwith damages? OPP
5. Whether plaintiff is entitled to relief of permanent injunction as prayed for? OPP
6. Whether has plaintiff no locus standi and cause of action to file the present suit? OPD
7. Whether plaintiff is estopped from filing the suit by his own act and conduct? OPD
8. Whether suit is bad for non joinder of necessary parties? OPD
9. Whether agreement to sell dated 3.12.02 is forged and fabricated and fictitious document, result of fraud and misrepresentation and without consideration? OPD
10. Whether suit is bad for non production of site plan?OPD
11. Relief.”

6. Plaintiff in order to prove execution of agreement to sell, examined both attesting witnesses namely Gopal Singh as PW2 and Ram Nath Roy as PW3. Certificate issued from Punjab National Bank regarding withdrawal of the amount has been placed on record as Mark ‘A’. To prove



his presence before the Sub Registrar, plaintiff proved on record affidavit dated 03.11.2003 (Exhibit P-4). Plaintiff testified as PW1.

7. In rebuttal, defendant testified as DW1. Ashok Kumar was examined as DW2.

8. The Court of the First Instance while answering Issues No.1 to 3 and 9 against the plaintiff, held that the plaintiff failed to prove execution of agreement to sell dated 03.12.2002 and the same is a forged and fabricated document without consideration.

8.1. The Court of the First Instance accordingly, dismissed the suit filed by the plaintiff.

9. Unsuccessful plaintiff, approached the Lower Appellate Court.

10. Lower Appellate Court after re-appreciating the evidence reversed the finding recorded by the Court of the First Instance. The Lower Appellate Court relied upon the testimony of attesting witnesses namely Gopal Singh (PW2) and Ram Nath Roy (PW3) to hold that the execution of agreement to sell stands proved. The Lower Appellate Court further found that at the time of execution of agreement to sell, the plaintiff paid considerable amount of Rs.6,00,000/- out of total sale consideration of Rs.7,00,000/-. He proved his presence before the Sub Registrar on the appointed date by way of affidavit (Exhibit P4). Thus, he proved his readiness and willingness. The promptness in filing of the present suit



further proves that the plaintiff was always ready and willing to perform his part.

10.1. The Lower Appellate Court accordingly, decreed the suit filed by the plaintiff.

11. Learned Senior Counsel appearing for the appellant has assailed the judgment and decree passed by the Lower Appellate Court. He submits that it stands proved that there are two constructed houses over the land in dispute. The land measures 5 Kanals. Property was worth more than Rs.40,00,000/- on the date the agreement to sell. It is highly unbelievable that appellant would sell the property merely for Rs.7,00,000/- acting against his own interest. He submits that the Lower Appellate Court erred in assuming the role of Handwriting and Finger Print Expert. Court compared signatures and concluded that the signatures of defendant on power of attorney and that on agreement to sell are similar. He submits that well reasoned findings were recorded by the Trial Court which have been wrongly reversed by the Lower Appellate Court without assigning cogent reasons. Marked discrepancies and contradictions between the testimony of the attesting-witnesses have been brushed aside by the Lower Appellate Court. He submits that once the defendant denied his signatures on the agreement to sell, it was incumbent upon the plaintiff to prove signatures of defendant by examining Handwriting Expert. Even the scribe was not examined. Thus, the Lower Appellate Court erred in decreeing the suit filed



by the plaintiff. He further submits that even the source of the earnest money alleged to have been paid to the defendant at the time of execution of agreement to sell, could not be proved. The plaintiff made a failed attempt by placing on record a marked document to prove withdrawal of Rs.6,00,000/-.

12. Per contra, Ld. Senior Counsel appearing for the defendant submits that the Lower Appellate Court has rightly reversed the findings recorded by the Court of the First Instance. Agreement propounded by the plaintiff was attested by two witnesses. Both the attesting witnesses were examined to prove the same. The attesting witnesses withstood the test of cross-examination. Though defendant denied agreement to sell claiming that the same was result of fraud and misrepresentation but neither details of fraud or misrepresentation have been pleaded in the written statement nor any evidence has been led to support the allegations of fraud and misrepresentation. Plaintiff paid Rs.6,00,000/- out of total sale consideration of Rs.7,00,000/- at the time of execution of agreement to sell. He remained present before the Sub Registrar on the date fixed for execution of the sale deed along with the balance sale consideration. His presence before the Sub Registrar stands demonstrated by way of affidavit, Exhibit P-4. The present suit was instituted within a month of expiry of the date fixed for execution of sale deed. Thus, the plaintiff having proved his readiness and willingness, is entitled for decree of specific performance.



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

14. Plaintiff seeks specific performance of agreement to sell dated 03.12.2002. The same is tendered in evidence as Exhibit P-3. The agreement to sell has been executed on regular stamp-paper by a Petition Writer namely Ram Parkash. The agreement to sell is attested by Gopal Singh, Lambardar and Ram Nath Roy, Advocate. Plaintiff in order to prove the same, examined both the attesting witnesses. Gopal Singh appeared as PW2. The other attesting witness namely Ram Nath Roy appeared as PW3. Both the witnesses were cross-examined. A conjoint perusal of their statements would reveal that both the witnesses fully proved execution of agreement to sell and there is hardly any contradiction material enough to discard their testimony. The defendant pleaded in the written statement that the agreement to sell is a result of fraud and misrepresentation. Defendant, however, failed to lead any evidence to prove the same. Defendant in his testimony though claimed that he has enmity with Advocate Ram Nath Roy, the attesting witness and Deed Writer Ram Parkash, but he failed to prove the same. He admitted that he has no enmity with the plaintiff. Once defendant claimed that the agreement to sell was result of fraud and misrepresentation, he was not only required to plead the details of such fraud and misrepresentation but was also required to prove the same. In the absence of there being any evidence, this Court finds that the Lower



Appellate Court has rightly held that the execution of agreement to sell, Exhibit P-3, stands proved.

14.1. The plaintiff evinced his presence before the Sub Registrar on the date agreed by parties to execute the sale deed by proving affidavit, Exhibit P-4. The suit was instituted promptly i.e., within a month thereafter. Thus, readiness and willingness of the plaintiff stand proved by his conduct.

14.2. Much emphasis has been laid down by learned Senior Counsel for the appellant regarding the value of the land being Rs.40,00,000/-. However, there is no evidence to prove that the bargain was unquestionable. That apart, as per Section 20 of the Specific Relief Act, 1963 as it read prior to being substituted by Act No.18 of 2018, mere inadequacy of consideration cannot constitute an unfair advantage within the meaning of Section 20(2) to appreciate hardship pleaded by the defendant.

14.3. So far as the issue w.r.t. non-proof of source of earnest money of Rs.6,00,000/- is concerned, the precise issue was dealt by this Court in the case of '**Nazar Singh vs. Dilawar Singh and others**', 2022(3) PLR 664, observing as under:

“10. No doubt the earnest money paid by the plaintiff was a huge sum but counsel for defendant No.1 has not pointed out any illegality in payment of a major portion of the total agreed sale consideration as earnest money at the time of execution of the agreement to sell. Though it has been argued on behalf of defendant No.1 that the plaintiff had failed to prove that he was ready and willing to perform his part of the contract, in para 4 of



his plaint the plaintiff stated that "...the plaintiff had always been willing and ready and he is still willing and ready to perform his part of the contract. The balance sale price and the amount required for necessary expenses of sale deed was/is ready with the plaintiff". Even in his affidavit submitted in examination-in-chief the plaintiff stated that "...the deponent had always been willing and ready and he is still willing and ready to perform his part of the contract. The balance sale price and the amount required for necessary expenses of sale deed was/is ready with the deponent". The cross-examination of the plaintiff shows that no suggestion or any question was put to him regarding readiness and willingness or about the availability of the balance sale consideration.

11. Regarding the plea by the defendant No.1 that payment of Rs.12,00,000/- in cash by the plaintiff was in violation of the provisions of the Income Tax Act, 1961 suffice it to say that in such a situation it is for the competent authority to initiate appropriate action against the plaintiff. No decision has been cited which lays down that in a suit for specific performance of agreement to sell the plaintiff has an obligation not only to explain his capacity to pay the balance sale consideration but also to explain that money paid/to be paid is accounted one. This contention raised by counsel for the defendant No.1 does not carry weight."

14.4. In view of the discussion held herein-above, this Court finds that the present regular second appeal at the behest of the defendant fails in the absence of any question of law involved.

15. Resultantly, finding no merit in the present appeal, the same is ordered to be dismissed.



16. Pending application(s), if any, shall also stand disposed off.

August 07, 2026

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes
Whether reportable : Yes