In the Court of Sh. Tanishth Goyal, Additional Civil Judge (Sr. Division), Khanna.
(*Unique Identification no. PB0457*)

Date of Institution: 30.11.2019
CIS No.CS.No.394-2019
CNR No. PBLDA0-000718-2019
Date of Decision : 2.7.2026

Jagmohan Singh aged about 58 years s/o Niranjan Singh r/o Kehar Singh r/o Deep Nagar, Gali no.2, Malerkotla Road, Khanna Tehsil Khanna, District Ludhiana now resident of 2957, Sherman Road, Duncan B.C. Postal Code V9L2B, Canada through himself and special power of attorney Ram Singh aged about 41 years s/o Surjit Singh r/o W.No.27, Khanna Khurd, Tehsil Khanna, District Ludhiana.

….Plaintiff.

Versus

1. Parwinder Singh Tung @ Sukhwinder Singh s/o Kesar Singh s/o Magghar Singh;
2. Swaran Kaur Tung w/o Parwinder Singh Tung @ Sukhwinder Singh s/o Kesar Singh s/o Magghar Singh adopted daughter Jagmohan Singh Rai s/o Niranjan Singh Rai s/o Kehar Singh;

both r/o Village Salana Jiwan Singh Wala, Tehsil Amloh, District Fatehgarh Sahib presently residing at 7921, 138-A Street, Surrey, British Columbia V3W7E8, Canada.

…..Defendants.

Suit for recovery of Rs 15,84,000 (Rupees Fifteen Lacs and Eighty four thousands only) i.e. Rs 15,00,000 (Rupees Fifteen Lacs only) as principal Amount and Rs 84,000/- (Rupees Eighty four thousand only) as interest @ 1% p.m. w.e.f date of cheque i.e. 11-06-2019 till 28-11-2019 with future interest at same rate i.e. 1% p.m till the passing of decree and from passing of decree till realization of the amount on the basis of cheque dated 11-06-2019 and other oral and documentary evidence.

Present : Sh.K.K Gaind, counsel for plaintiff.
Sh A.K Verma, counsel for defendants.

JUDGMENT

Instant suit for recovery has been filed by the plaintiff Jagmohan Singh with the averments that the plaintiff is settled in Canada. Defendant no.2 is wife of defendant no.1 and defendant no. 1 executed an agreement to sell dated 25-03-2011 in favour of plaintiff regarding land measuring 04-13M out of total land measuring 83K- 11 M, in which seller has 93/1671 share i.e. 04-K-13M as per jamabandi for the year 2005-06 and 2015-2016 situated at Village Salana Jiwan Singh wala, Tehsil Amloh, District Fatehgarh Sahib. The defendant no.1 has executed the agreement to sell in favour of plaintiff of above said land for amount of Rs. 6,00,000/- and received the above said full amount of Rs. 6,00,000/- on same day i.e. 25-03-2011 in the presence of marginal witnesses of agreement to sell in collusion with defendant no.2 and nothing was due from the plaintiff. It was agreed in above said agreement to sell that defendant no. 1 will execute registry of above said land in favour of plaintiff uptill 15-04-2012 at the instance of plaintiff/buyer and also possession would be delivered at time of registration of agreement to sell. It was further agreed that in case the seller/defendant no.1 fails to abide by the terms of above said agreement to sell than plaintiff/seller can enforce the agreement to sell with the help and assistance of court and also entitled to receive double the amount of agreement to sell i.e. plaintiff is entitled to recover Rs 12,00,00/- (Twelve Lacs only) as principal amount. Defendant no.1 is also liable along with interest @ 1% p.m till realization of amount. It is pertinent to mention here that both the parties and even their legal representatives are bound by the terms and conditions of the agreement to sell dated 25-03-2011. However no such possession was ever delivered to the plaintiff/buyer and the terms of agreement to sell were never complied with by the defendant no.1 and therefore, defendants are jointly liable to pay double the amount of agreement to sell along with the interest @ 1% p.m, however no such amount was ever paid to the plaintiff by the defendants. The plaintiff has also given Rs. 50,000/- as loan to one Amanpreet Singh s/o Devi Dyal on 15-04-2011 for household expenses at the instance of defendant no.1 and in this regard an agreement has been executed on 15-04-2011 on stamp paper of Rs. 50 which clearly specifies that in case the debtor fails to repay the said amount after six months from date of credit, creditor is entitled to recover the whole amount along with the interest @ 2% p.m uptill the payment. It is pertinent to mention here that the plaintiff has given above said loan amount at the instance of the defendant no.1 and the said amount was never repaid by Amanpreet Singh and he acted in collusion with the defendant no.1 and defendant no.1 is also a witness to said agreement dated 15-04-2011 which was executed at the instance of defendant number 1. Except this plaintiff has also given loan of Rs. 4000 to one Bara Singh @ Kala s/o Sadi Singh, for which said Bara Singh has given his affidavit dated 14-03-2011, wherein it was mentioned that he will return the above said amount by get Rs. 800/- deducted from his salary from the month of April onwards, as he was working as a servant in the house of plaintiff, it is pertinent to mention here that the above said Amanpreet Singh acted as witness to above said affidavit at the instance of defendants. Furthermore the plaintiff had also given Rs. 20,000/- to one Tejinder Singh also at the request and surety of Defendant no.1, who again acted in Collusion and connivance with the defendant no.2. Furthermore except the above said amount defendant no.1 by misrepresenting and by playing fraud upon the plaintiff induced the plaintiff to deposit the telephonic bills of defendant no.1 and also by misrepresentation and fraud by acting as an agent induced the plaintiff to buy an life insurance policy of ICICI prudential, Policy no. 11724183 Rs. 20,000/- which are also lying with the defendant no.1 and as such act is also committed in connivance and collusion with defendant no.2. Plaintiff requested the defendant numerous times to make payments in discharge of all the above said dues against him in favour of plaintiff and in discharge of liability of defendant, defendant no.1 issued a blank cheque number 228816 of State Bank of Patiala, G.T. Road Khanna and asked the plaintiff to fill the amount which has been became due in favour of plaintiff and plaintiff filled the amount of Rs. 15,00,000/- for recovery of all the dues against the defendant, but however in order to frustrate the claim of plaintiff, defendant never deposited the debt amount with his bank. It is pertinent to mention here that before encashment of cheque, plaintiff asked the defendant to deposit the amount of Rs. 15,00,000/- with the banker of defendant so that debt amount can be withdrawn, but defendant given false hope to plaintiff. Plaintiff requested defendant many times to repay the abovesaid amount but he failed to do so. Hence, the present suit.

2. Upon notice, the defendants filed written statement by taking the preliminary objections that suit of the plaintiff is not maintainable and liable to be dismissed. The plaintiff has suppressed the most material facts from the Court and as such is not entitled to the relief claimed for in the present suit. The true facts are that the plaintiff and answering defendants are relative i.e. the defendants no.2 is daughter of plaintiff and the defendant no.1 is son in law of the plaintiff. In the year of 2011, the defendant no.1 was in need of Rs.6,00,000/- and the defendant no.1 borrowed an amount of Rs.6,00,000/- from plaintiff and plaintiff for a security of the above stated amount got

executed alleged agreement to sell dated 25.03.2011 from the defendant no.1, apart from the alleged agreement to sell dated 25.03.2011 the plaintiff also took one blank signed undated cheque no. 228816 drawn at State Bank of Patiala Branch G.T Road, Khanna from the defendant no.1 as security to the above said loan amount. The defendant no.1 agreed to return the above stated amount up to 15.04.2012. In this manner the answering defendant no.1 never intended to dispose off his property mentioned in the alleged agreement to sell dated 25.3.2011 rather the alleged agreement 25.03.2011 executed by defendant no.1 in favour of the plaintiff is a just a security document to the loan amount of Rs. 6,00,000/- borrowed by the answering defendant no.1 from the plaintiff. The defendant no.1 returned the above said amount of Rs,6,00,000/- to the plaintiff in presence of the marginal witnesses of the alleged agreement to sell dated 25.03.2011 and asked the plaintiff to return the original alleged agreement to sell dated 25.03.2011 and blank signed undated cheque bearing no.228816 drawn at State Bank of Patiala Branch G.T Khanna. The plaintiff told the defendant no.1, that the plaintiff will return the above stated alleged agreement and above stated cheque after some days as the alleged agreement to sell and above said cheque is misplaced somewhere and plaintiff assured to return the same as and when the same will found and the answering defendant no.1 trust on the plaintiff and due to close relation did not force the plaintiff to return the same at the time of repayment of the above said amount of Rs.6,00,000/- to the plaintiff by the defendant no.1. This fact is clear from the conduct of the parties to agreement that up till today the plaintiff never asked for the execution and registration of the sale deed as per alleged agreement to sell dated 25.03.2011. The relief on the basis of the alleged agreement to sell dated 25.03.2011 is also barred by law of limitation as the alleged agreement to sell was executed by the defendant no.1 in favour of the plaintiff on 25.03.2011 and the present suit was filed by the plaintiff in the year of 2019 and as such, the suit of the plaintiff is hopelessly time barred and merits dismissal on this ground alone only. The suit of the plaintiff is also bad for mis-joinder of parties as defendant no.2 has no concern with the controversy in the present suit and the plaintiff has intentionally and malafide impleaded her as defendant no.2 in the present suit just to harass the answering defendant no.2. The suit of the plaintiff is based on concocted story of the plaintiff which is crystal clear from the facts and circumstances stated above. All other averments put forth in plaint were denied and dismissal of present suit thus was prayed for.

3. Replication was filed. From the pleadings of the parties, the following issues were framed:

1. Whether the plaintiff is entitled for recovery of Rs.15,84,000/- as prayed for ? OPP
2. Whether the suit of the plaintiff is not maintainable and liable to be dismissed?OPD
3. Whether the plaintiff has not come to court with clean hands?OPD
4. Whether the plaintiff has no valid cause of action to file the present suit?OPD
5. Whether the plaintiff has no locus standi to file the present suit?OPD
6. Relief.

4. To prove their case, plaintiff Jagmohan Singh himself stepped into witness box as PW1 and tendered into evidence his duly sworn affidavit as Ex-PA and deposed on the lines of his plaint and proved on record power of attorney Ex.P1, agreement to sell dated 25.3.2011 Ex.P2, jamabandi for the year 2005-06 and 2015-2016 Ex.P3, stamp paper Ex.P4, affidavit dated 14.3.2011 Ex.P5, copy of policy no. 11724183 Mark P6, blank cheque Mark P7 and copy of his Aadhar Card Ex.P8.

Plaintiff further examined Navneerajpal Walia, the concerned bank official, as PW2 who had proved on record Ex.PW2/1, copy of account statement Ex.PW2/2. There-after, Ld. Counsel for plaintiff tendered documents copies of plaint Ex.P9 and Ex.P10 and copy of special power of attorney Ex.P11 and closed plaintiff's evidence.

5. In order to rebut the claim of the plaintiff, defendants examined Tejinderpal Singh as DW1 who tendered into evidence his duly sworn affidavit as Ex-DW1/A and deposed on the lines of his written statement. He also proved on record copies of power of attorneys Ex.DW1/B and Ex.DW1/C. Defendants further examined Amanpreet Singh as DW2 who tendered into evidence his duly sworn affidavit as Ex-DW2/A. There-after, Tejinderpal Singh alongwith Ld. Counsel closed defendant's evidence.

6. No rebuttal evidence is intended to be led by the plaintiff. Ld. Counsel for plaintiff has expressed his willingness to address arguments. Rebuttal evidence is therefore closed by order.

7. After hearing the learned counsel for the parties and going through the statements of witnesses and documents placed on record, my issue-wise findings are as under:-

<u>**ISSUE No.1**</u>

8. The onus to prove the issue no.1 was on the plaintiff.

9. The version of the plaintiff by way of the present suit is that defendant no.1 had executed an agreement to sell in favour of the plaintiff for sale of some land for a sum of Rs.6 lacs. The said amount was duly paid by the plaintiff, but defendant no.1 failed to honour his part of the contract. There was a stipulation in the agreement to sell that in case of default committed by the defendant, plaintiff would be entitled to receive the double of said amount

alongwith interest. The plaintiff has also alleged that he had given a loan of Rs.50,000/- to one Amanpreet Singh and another loan of Rs.20,000/- to one Tejinder Singh at the instance of the defendant. The plaintiff has further pleaded that he was entitled to receive total amount of Rs.15 lacs from defendant no.1 and in lieu of that liability, defendant no.1 issued a cheque dated 11.6.2019 to the plaintiff. However, as defendant no.1 did not have sufficient balance in his bank account, so the plaintiff never presented the said cheque for encashment in the bank. Now, the present suit seeking recovery of Rs.15 lacs alongwith interest has been filed by the plaintiff.

10. To prove this version, plaintiff has brought on record the alleged agreement to sell executed between the parties as Ex.P4 and the cheque dated 11.6.2019 as Mark P7 in his testimony. The plaintiff also examined one bank official as PW2 to prove that defendant no.1 was not having sufficient balance in his account when the said cheque was given to plaintiff.

11. Per-contra, it has been pleaded by the defendants that defendant no.1 had taken a loan of Rs.6 lacs from the plaintiff in the year 2011 and the agreement to sell dated 25.3.2011 was scribed as a security document. It has been further alleged that plaintiff had taken one blank signed cheque from defendant as a security, which was later filled by the plaintiff on his own. The defendant has pleaded that he had returned the loan amount in the year 2012 and now nothing was due towards the plaintiff.

12. On the basis of these pleadings, it was argued on behalf of the plaintiff that as the defendant had admitted the factum of taking of loan, so the case of the plaintiff was duly proved. The onus to show the return of loan amount shifted upon the defendant, but the defendant failed to do so. Hence, it was prayed that the suit of the plaintiff must be decreed accordingly.

13. After perusing the record carefully, this court believes that there is no dispute regarding the fact that defendant no.1 had taken a loan of Rs.6 lacs from the plaintiff in the year 2011. It is also an admitted fact that agreement to sell dated 25.3.2011 was executed between the parties. Now the question before the court is that whether plaintiff is entitled to recover any amount from the defendant on the basis of the said agreement or not.

14. It is a settled principle of law that the period of limitation to recover any money from the defendant is 03 years from the accrual of cause of action to the plaintiff. In the present case as well, as per the terms of the agreement dated 25.3.2011, the sale deed was to be registered till 15.4.2012. Thus, the period of limitation for the enforcement of agreement or recovery of earnest money started running on 15.4.2012. Accordingly, the present suit for recovery of money should have been filed by the plaintiff within 03 years from 15.4.2012, but the same has been filed on 30.11.2019.

15. In this regard, it was contended on behalf of the plaintiff that although the period of limitation of 03 years from accrual of cause of action had expired, but defendant no.1 had given a cheque bearing no. 228816 of Rs.15 lacs to the plaintiff in the year 2019, Mark P7 on the record. It has been argued by the plaintiff that the said cheque acted as acknowledgment of liability by the defendant, thus, the period of limitation started to run again from the date of handing over of cheque to the plaintiff by the defendant. So, it was pleaded by the plaintiff that his suit was well within the period of limitation.

16. This court, however, finds no merit in this argument of the plaintiff. This is so because section 18 of the Limitation Act, 1963 categorically provides that acknowledgment of debt extends the period of

limitation only if the said acknowledgment is made during the subsistence of limitation period. It has also been held by the Hon'ble Supreme Court of India in the case of **Sesh Nath Singh Vs Baidyabati AIR 2021 SC 2637**, that acknowledgment of debt under section 18 of the Limitation Act must be made before the period of limitation expires and not after that.

17. In the present case as well, the period of limitation to seek recovery of the amount advanced under agreement to sell dated 25.3.2011 expired in the year 2015 (as the cause of action accrued on 15.4.2012). The cheque allegedly given by defendant no.1 to the plaintiff could extend this period of limitation u/s 18 of Limitation Act only if the said cheque were given to the plaintiff before 2015. However, the plaintiff has himself admitted in his cross-examination dated 6.3.2023 that the cheque in question was given to him by defendant no.1 in 2019. As such, this time-barred cheque cannot revive the limitation period which had already expired in the year 2015. Moreover, as per the testimony of PW2, neither the said cheque was a valid instrument in the year 2019 nor there is any other evidence on the record to prove the handing over cheque by the defendant to the plaintiff. Accordingly, this court firmly believes that the plaintiff has failed to prove that his suit was filed within the period of limitation.

18. It is an established principle that Law comes rescue to those, who are vigilant and who do not sleep over their rights as delay defeats equity. The doctrine of delay and laches cannot be lightly brushed aside. A Court has a duty to protect the rights of the citizens, but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the *lis* at a belated stage should be

entertained or not. As stated above, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant- a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the *lis*.

19. In the case of **Amrit Lal Berry Vs CCE (1975)4 SCC 714**, the Hon’ble Superme Court of India took the view that “if a petitioner has been so remiss or negligent as to approach the Court for relief after an inordinate and unexplained delay, he certainly jeopardises his claims as it may become inequitable with circumstances altered by lapse of time and other facts, to enforce, a fundamental right to the detriment of similar claims of innocent third persons.”

20. This is also based upon the two canons of equity, viz., *‘Interest republicate ut sit finis litium’*, which means that it is in the interest of the State that there must be an end to the litigation, and *‘Vigilantibus non dormientibus jura subvenient’*, which means that law assists only those who are vigilant and not those who sleep over their rights. It was also held by the Hon’ble Supreme Court of India in the case of **A.C. Arulappan Vs Ahalya Naik (2001) 6 SCC 600**, that law Courts never tolerate any indolent litigant since delay defeats equity.

21. Therefore, in the present case as well the plaintiff is not entitled to seek recovery of any amount from the defendants as his claim is grossly time-barred. As far as the alleged loans given to Amanpreet Singh and

Tejinder Singh are concerned, neither they have been made party to the suit nor the factum of advancement of loan to them could be proved by the plaintiff. In these circumstances, this court believes that the plaintiff is not entitled for recovery of any amount from the defendants, the claim being barred by limitation. Hence, this issue is decided against the plaintiff and in favour of the defendants.

<u>Issues No. 2 to 5</u>

22. All these issues are taken together to avoid unnecessary repetition. The onus to prove these issues was on the defendants, but the defendants have not led any cogent and convincing evidence qua these issues. Consequently, the findings on all these issues are returned in favour of the plaintiff and against the defendants.

<u>Relief</u>

23. In view of the discussions made above, the suit of the plaintiff is dismissed with costs. Decree sheet be prepared accordingly. File be consigned to the record room after due compliance.

Pronounced in open court.
Dt. 2.7.2026

Tanishth Goyal, PCS
Addl. Civil Judge (Sr. Division),
Khanna.
(*Unique Identification no. PB0457)*

(Nancy Mittal/JW-II)
Directly Dictated

Jagmohan Vs Parwinder Singh CS-394-2019

Present : Sh.K.K Gaind, counsel for plaintiff.
Sh A.K Verma, counsel for defendants.

Perusal of the file shows that issues in this case were not framed, but evidence was already led by the parties. The mistake being inadvertent stands rectified. The issues in the present case are hereby framed:-

1. Whether the plaintiff is entitled for recovery of Rs.15,84,000/- as prayed for ? OPP
2. Whether the suit of the plaintiff is not maintainable and liable to be dismissed?OPD
3. Whether the plaintiff has not come to court with clean hands? OPD
4. Whether the plaintiff has no valid cause of action to file the present suit?OPD
5. Whether the plaintiff has no locus standi to file the present suit? OPD
6. Relief.

Both the Ld. Counsels for the parties stated at bar that they do not want to lead any fresh evidence on any of the issues because their evidence in the present case was already concluded.

No rebuttal evidence is intended to be led by the plaintiff. Ld. Counsel for plaintiff has expressed his willingness to address arguments. Rebuttal evidence is therefore closed by order.

Arguments heard. Vide my separate detailed judgment of even date, suit of the plaintiff is dismissed with costs. Decree sheet be prepared accordingly. File be consigned to the record room after due compliance.

Pronounced in open court.
Dt. 2.7.2026

Tanishth Goyal, PCS
Addl. Civil Judge (Sr. Division),
Khanna.

(Nancy Mittal/JW-II)
Directly Dictated

(*Unique Identification no. PB0457)*

Tanishth Goyal, PCS
ACJSD, Khanna, UID no. PB0457