

**In the Court of Ankita Gupta, PCS, Civil Judge (Junior Division),
Moonak**

Civil Suit No. 170/2020
Date of Institution: 06.03.2020
Date of Decision: 20.03.2026

Jaswinder Singh son of Partap son of Malook Singh, resident of Pipalteh,
Tehsil Narwana, Distt. Jind (Haryana).

.....Plaintiff

Vs.

Danna Ram son of Amar Singh son of Deotiya Ram, resident of Village
Karoda, Tehsil Moonak, Distt. Sangrur.

.....
Defendant

A) Suit for joint possession by way of specific performance of contract dated 20-06-2018 directing the defendant to execute sale deed in favour of the plaintiff with regard to total land measuring 12 kanal 0 marla out of land 301 kanal 6 marla i.e. 240/6026 share khewat/Khatouni no. no. 7/29 Mustill and killa no. 115(1-15), 15//1(8-0), 2(8-0), 9(8-0), 10(8-0), 11(8-0), 12(8-0), 19(8-0), 20(8-0), 21(8-0), 22(8-0), 16//5(8-0), 6(8-0), 15(8-0), 16(8-0), 24/1(5-1), 25(8-0), 23//4(7-0), 5(7-11), 7(7-0), 13/7(0-3), 14(7-0), 24//1(8-0), 2(8-0), 9(8-0), 70//1(7-11) 2(7-11), 3(7-11), 4(3-15), 8(4-7), 9(8-0), 10(8-0), 11(8-0), 12(4-18), 20(6-17), 71//4(7-011), 5(7-11), 6(8-0), 7(8-0), 14(8-0), 15(8-0), 16(8-0), 17/1(4-0), 25/2(3-13), Situated at Village Karoda Tehsil, Moonak, Distt Sangrur, as per agreement to sell dated 20-06-2018 along with along with all rights of ownership title, Possession, Khal, Rasta, Trees, Butt, Doll, etc. & free from all encumbrances for a total consideration of Rs. 27,00,000/ & to get same registered after adjusting amount of Rs 8,00,000/- already received by defendant from the plaintiff as part payment (earnest money) at the time of execution of agreement to sell dated 20-06-2018 and after receiving the balance sale price of Rs. 19,00,000/ from plaintiff.

And In the alternative suit for the recovery of Rs 16,00,000/-(i.e. Rs.

8,00,000/- being principal amount given as earnest money and Rs.8,00,000/- liquidated damages) along with interest @ 18% p.a. from the date of agreement till the Realization of the amount from the Defendant.

B) Suit for permanent injunction to the effect that the defendant be restrained from alienating, transferring or mortgaging any part of total land 12 kanal 0 marla out of land 301 kanal 6 marla i.e. 240/6026 share khewat/Khatouni no. no. 7/29 Mustill and killa no. 115(1-15), 15//1(8-0), 2(8-0), 9(8-0), 10(8-0), 11(8-0), 12(8-0), 19(8-0), 20(8-0), 21(8-0), 22(8-0), 16//5(8-0), 6(8-0), 15(8-0), 16(8-0), 24/1(5-1), 25(8-0), 23//4(7-0), 5(7-11), 7(7-0), 13/7(0-3), 14(7-0), 24//1(8-0), 2(8-0), 9(8-0), 70//1(7-11) 2(7-11), 3(7-11), 4(3-15), 8(4-7), 9(8-0), 10(8-0), 11(8-0), 12(4-18), 20(6-17), 71//4(7-011), 5(7-11), 6(8-0), 7(8-0), 14(8-0), 15(8-0), 16(8-0), 17/1(4-0), 25/2(3-13), Situated at Village Karoda Tehsil, Moonak, Distt Sangrur, as per agreement to sell dated 20-06-2018 in favour of any person in any manner, except the Plaintiff whatsoever.

Present: Sh. S.K.Vashistha, Advocate, counsel for the plaintiff.
Sh. Amit Chutani, Advocate, counsel for the defendant.

JUDGMENT

Laconically stated the facts of the present case are that defendant is owner and in Possession in the land measuring 12 kanal 0 marla out of land 301 kanal 6 marla i.e. 240/6026 share khewat/Khatouni no. no. 7/29, Khasra numbers as detailed in the heading of the plaint Situated at Village Karoda Tehsil, Moonak, Distt Sangrur. The defendant was in need of Money therefore he was agreed to sell his share i.e. 240/6026 share out of the suit property situated at Village Karoda Tehsil, Moonak, Distt Sangrur, as detailed mention in the head note-A of the plaint, to the Plaintiffs for a total valuable consideration of Rs. 27,00,000/-. The defendant agreed to sold the

suit land @ 18,00,000 per Acre with the defendant & he received Rs 8,00,000/- from the plaintiff as part payment (earnest money) at the time of execution of agreement to sell dated 20-06-2018 in the presence of witnesses and executed an agreement of sale at Khanouri, Tehsil Moonak Distt. Sangrur on 20-06-2018 in favour of the Plaintiff the terms of agreement is as under:

(a) That defendant was agreed to sell to the extent 12 kanal 0 marla out of land 301 kanal 6 marla ie. 240/6026 share bearing Kharsa no, as detail mention in the heading of the plaint situated in the revenue estate of Village khroda, as per agreement to sell dated 20-06-2018 along with along with all rights of ownership title, Possession, Khal, Rasta, Trees, Butt, Doll, etc. & free from all encumbrances for a total consideration of Rs. 27,00,000/ & he received Rs 8,00,000/- from the plaintiff as part payment (earnest money) at the time of execution of agreement to sell dated 20-06-2019 & as part Payment of sale consideration from the Plaintiff in the Presence of witnesses Sanamdeep Singh son of Ramesh Singh resident of Village Karonda Disst Sangrur, and Ratia Ram Nambardar resident of Village Karoda, Tehsil Moonak Distt. Sangrur, it was settled the remaining sale consideration shall be paid at the time of the registration of sale deed. The sale deed to be got registered by the vendee from the vendor on 20-06-2019. And Possession will be delivered to the Plaintiff at the time of execution of sale deed by the defendant. It was further agreed between the parties that in case the Plaintiff failed to fulfill the terms & condition agreement in that case the earnest money will be forfeited and in case the vendor fails to execute the sale deed in favour of the Plaintiff in that eventuality the Plaintiff shall be entitled to get the sale deed executed & registered in his favour through court or the Plaintiff shall be entitled to the double amount of the earnest money. The

expenses with regard to the registration of the sale deed shall be born by the Plaintiff.

The agreement dated 20-06-2018 was witnessed by Sanamdeep Singh son of Ramesh Singh resident of Village Karonda Disst Sangrur, and Ratia Ram Nambardar resident of Village Karoda, Tehsil Moonak Distt. Sangrur. The agreement was drafted at the instance & direction of the defendant, After scribing the agreement 20-06-2018, the same was duly read over & explained to Defendant in the presence of the witnesses who after listening, understanding & admitting it to be correct appended his Signature in Punjabi on the agreement i the presence of marginal witness of the said agreement. Witnesses of the agreement also attested the agreement in the presence of the Defendant and Plaintiff. Plaintiff also signed the agreement in capacity of purchaser. On 20-06-2019 defendant requested to the Plaintiffs that due to domestic Problems and unable to execute the sale deed and also requested that date of the execution of registration of sale deed may kindly be extended. So with the consent of the both the Parties date of execution of sale deed extended till 30-06-2020 and remaining conditions will be remain as per agreement dated 20-06-2018. In this Regard Writing was written on the back side of the first page of the Agreement dated 20-06-2018 in the Presence of witnesses Lambardar Ratia Ram of village Karoda and Shamsher Singh son of Chuhar Singh Resident of Village Pipal Thah. The agreement for extension of date was draft/scribed at the instance & direction of the defendant, After scribing the agreement for extension 20-06-2019, the same

was duly read over & explained to Defendant in the presence of the witnesses who after listening, understanding & admitting it to be correct appended his Signature in Punjabi on the agreement in the presence of marginal witness of the said writing. Witnesses of the extension of writing signed and thumb marked in the presence of the Defendant & Plaintiff. Plaintiff also signed the writing for extension. It is pertinent to mention here that vide lease deed no. 275 dated 02-09-2015 defendant leased his land 8 kanal out of khasra no.16//5 and 6 to the Plaintiff in the name of Young dream education welfare Society karoda through its President Jaswinder Singh (Plaintiff) for 60 years. And in that land Plaintiff construct the building of School and Running the school in the name of Young dream education welfare Society karoda. But Defendant become dishonest and in the month of august 2019 started to threat the Plaintiff to interfere in the possession of School Building (which was leased out to Plaintiff by the defendant) then Plaintiff filed a suit for Permanent injunction to restrain the defendant not to interfere in the School Building. In that suit status qua was granted in favour of the Plaintiff. In that case defendant appeared and filed his written statement along with counter claim and wrongly denied the execution agreement dated 20-06-2018 and challenged the agreement dated 20-06-2018 through counter Claim on wrong and false facts just to harass the Plaintiff. The Plaintiff was always ready & willing & is still ready & willing to perform their part of the contract. But the Defendant was not ready to perform his part of the contract. And he become dishonest, the defendant

denied the agreement on wrong and false facts. The date was fixed for the execution of sale deed 20-06-2019, but date of registration of sale deed was extended till 30-06-2020, but defendant denied wrongly and resile from the agreement dated 20-06-2018, so Plaintiff got the cause of action to file the suit for Specific Performance before the date 30-06-2020. The plaintiff is entitled to get the sale deed executed from the defendant with regard to the suit land along with all rights of ownership, title, possession, free from all encumbrances etc. as per terms of agreement dated 20-06-2018 and in the alternative if the Hon'ble Court comes to the conclusion that due to any reason specific performance of the contract cannot be enforced (though there is no reason to arrive such a conclusion) then in that case the plaintiff is entitled to recover Rs. Rs 16,00,000/- (i.e. Rs. 8,00,000/- being principal amount given a earnest money and Rs. 8,00,000/- liquidated damages) along with interest C 18% p.a. from the date of agreement till the Realization of the amount from Defendant. The Plaintiffs also entitled possession of the suit land. The defendants with malafide intention are intending and threatening to alienate the suit property to some other persons for which they have no right to do so. Hence, the present suit.

2. Upon notice of the suit, the defendant has appeared and filed written statement in which denied all the material averments of the plaint and further stated that plaintiff Jaswinder Singh was resident of village Pipalthey and well aware about that fact that there is no school in Village Karoda as defendants were also willing to open school in village Karoda Hence an

meeting was held between Jaswinder Singh plaintiff and defendants and both the parties were agreed to open a school in partnership of equal share, as per oral agreement. It was agreed that school will be opened under the name and style of Young Dreams Education Society since society was formed only to save income Tax and get the sanction from PSEB. Otherwise there were no intention to serve the village with free education as the school is private institution and there is no free education to any student or particular section of society. In order to start the school, defendant no.1, has leased out his 8-0 of land in favour of plaintiff society however the land were leased out for 30 years but the Jaswinder Singh had get the document executed for 60 years but he given the copy of lease deed by making cutting in the column of year and shown the document as lease of 30 years. It was, orally agreed that there will be partnership of 50% between Jaswinder Singh and answering defendants but as per rule of the society the partners will be shown as president/cashier etc. In-fact it was partnership between jaswinder Singh and answering defendants to the extant of 50%. Answering defendants had actively participated in the construction of School by paying equal amount in construction and other expenses and to get the admission of students but all the account books were in custody of plaintiff Jaswinder Singh and he use to take signature of defendants by stating that the document is required to be shown to particular department and while forming society, the defendant no 3 was introduced as cashier of society and the defendants were implied partner and the answering defendants were in good faith of the plaintiff

Jaswinder Singh. So that the answering defendants without asking any question to plaintiff Jaswinder Singh had put their signature even on the single asking of plaintiff Jaswinder Singh even on blank papers. The answering defendants were in good faith of plaintiff Jaswinder Singh so that the answering defendants had never questioned the working of Jaswinder Singh and even never asked about the income of school because of the fact that Jaswinder Singh had stated that with in 7-8 years all the development work of school will complete and thereafter the school will give huge income but in fact it was bad intention of the plaintiff Jaswinder Singh. As and when defendant no 1 use to visit the school then plaintiff Jaswinder Singh use to put his signature on blank papers by stating that the defendant no 1 is member of society and for the purpose of approval by the PSEB, banks etc signature of every member required and to show the expenses he use to take the signature on vouchers so that the answering defendant no 1 had put his signature on blank paper, vouchers etc but with the bad intention of plaintiff he committed the cheating with answering defendants and had converted the pre-signed paper in to valuable security and had prepared the receipt for three years by removing the adhesive stamp from voucher and had prepared the receipt for three years lease. Whereas no receipt was ever signed by the answering defendant no 1. Nor any amount was ever given by plaintiff to answering defendant no 1. The plaintiff had not shown the books of account to answering defendants from the inception of school nor render any account to the answering defendants. Prior to one month of filing the suit, the

behavior of plaintiff Jaswinder Singh suddenly changed and he started rudely behavior and some time he stated to answering defendant no 1 to go out side from school then it created the doubt in the mind of answering defendants and after some time the plaintiff Jaswinder Singh had filed the present suit on wrong facts and even without disclosing the fact as to oral partnership of 50% and also introduction of answering defendant as member of society. After getting summons from this Court, the answering defendants enquired about the facts and had applied the certified copy of registration of society then it came in the knowledge of answering defendants that the plaintiff Jaswinder Singh had hatched a conspiracy with their relatives and had intentionally expelled the defendant no 3 from the society through anti dated resolution dated 20.01.2018. And defendant no 1 and 2 never inducted in the society. And in order to be sole owner of school, the plaintiff Jaswinder intentionally introduced their family members in the society and had become the sole owner of school by illegally expelling the defendant no 3 from the post of cashier because post of cashier could huddle in the illegal motive of plaintiff Jaswinder Singh. As no notice was given to answering defendant no 3 while expelling from the society. No opportunity was given to being heard given to defendant no 3. It is very strange that the land on which the school building exist is of answering defendants and half amount on construction has been contributed by answering defendants but still the answering defendants are out from the society, by this way the plaintiff Jaswinder Singh had committed the cheating with the answering defendants and still

answering defendants are facing court cases. As answering defendants had spend their whole income from 2015 to till date by investing the money in school but still facing court case duo to cheating of plaintiff Jaswinder Singh. Remaining facts of cheating will be highlighted during the course of evidence and arguments. The school is working under the name and style of Young dream education welfare society but the building was constructed from the joint funds of plaintiff Jaswinder Singh and answering defendants however the factum regarding introduction of defendant no 3 as cashier of society has been concealed by the plaintiff Jaswinder Singh and also concealed that the with the conspiracy of his family members he expelled the defendant no 3 from the society. The answering defendant no 3 is cashier of the society and had been wrongly expelled from the society in the lust of greed and only to commit cheating with the answering defendants. However no resolution is attached with the plaint which showing the authorization of plaintiff to file the present suit. The same may kindly be treated as part and parcel of this para also. The answering defendant no 3 is cashier of the society and had been wrongly expelled from the society in the lust of greed and only to commit cheating with the answering defendants. The answering defendants will do everything as per law. However the answering defendants are victim of cheating. Therefore, it is prayed for dismissal of the suit.

3. Controverting the pleas raised by the defendants in their written statement as noted above and reiterating their own pleas as made in the plaint and the pleadings of the parties resulted into framing of following issues in

the case:-

- (1) Whether the plaintiff is entitled to possession by way of specific performance as prayed for? OPP
 - (2) Whether the plaintiff is entitled to permanent injunction as prayed for? OPP
 - (3) Whether the suit of the plaintiff is maintainable? OPP
 - (4) Whether the plaintiff is estopped by his own act and conduct to file the present suit? OPD
 - (5) Whether the plaintiff has concealed the true and material facts from the Court and have not come to the Court with clean hands? OPD
 - (6) Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD
 - (7) Relief.
4. In order to substantiate his case, the plaintiff examined Gurjit Singh (Attorney holder of plaintiff Jaswinder Singh) as PW1 who tendered into evidence his duly sworn affidavit Ex.PW1/A wherein he deposed as per averments of the plaint. He also proved on record original power of attorney Ex. P1, agreement to sell Ex.P1 (again repeated), identification of signature on original writing dated 20.06.2019 Ex. P3.
5. Further plaintiff examined Shamsher Singh as PW2 who tendered into evidence his duly sworn affidavit Ex PW2/A, wherein he deposed as per averments of the plaint. He also identified his signature on the original agreement to sell.
6. Further plaintiff examined Sh. R.V. Vashistha Handwriting and

Fingerprint Expert as PW3 who tendered into evidence his detailed report Ex PW3/A. He also tendered into evidence photo-charts Ex. PW3/B to Ex. PW3/G.

7. Further plaintiff examined Vinod Kumar Stamp Vendor as PW4 who tendered into evidence his duly sworn affidavit Ex PW4/A. He also proved entry regarding purchasing of stamp as Ex. P4. He also identified his signature on Ex. P3, Ex. P5 to Ex. P8.

8. Further plaintiff examined Sanamdeep Singh as PW4. He identified his signature as Ex. P9 on Ex. P1. However, he has not supported the case of the plaintiff and has turned hostile.

9. Thereafter, learned counsel for the plaintiff has tendered into evidence jamabandies for the year 2014-15 Ex. P10 and Ex. P11, certified copy of plaint Ex. P12, certified copy of written statement Ex. P13, lease deed Mark-PA and closed the plaintiff evidence in affirmative vide his separate statement to this effect.

10. In defendant evidence, defendant Danna Ram examined himself as DW1 who tendered into evidence his duly sworn affidavit Ex DW1/A wherein he deposed as per averments of the written statement. During re-examination, he supported the version of the defendant.

11. Defendant further examined Sardool Singh Clerk as DW2 who brought the summoned record and produced on record copies of the same Ex. DW2/A containing 73 pages.

12. Thereafter, learned counsel for the defendant has closed the oral evidence vide separate statement to this effect.

13. Thereafter, learned counsel for the defendant has tendered into evidence certified copy of plaint as Ex. DX and closed the documentary evidence on behalf of defendant vide his separate statement to this effect.

14. Thereafter, counsel for plaintiff closed rebuttal evidence on behalf of plaintiff vide his separate statement to this effect.

15. Learned counsel for the parties have been heard at length and record of the case perused with due care and circumspection. The issue-wise findings of the Court are as follows:-

Issue Nos.1 to 2:

16. All these issues are taken up together to avoid the repetition of facts and evidence as the same are inter-related. The onus to prove these issues were on the plaintiff. The plaintiff has filed the present suit for specific performance agreement to sell or in the alternative for recovery along-with permanent injunction restraining the defendant from alienating the suit property in question to any other person. It is the case of the plaintiff that in agreement to sell dated 20.06.2019 was executed between the plaintiff and defendant in which the defendant agreed to sell the property in question to the plaintiff and received sale consideration of Rs. 8,00,000/-. However, before the date fixed for execution of the sale deed there arose a dispute between the plaintiff and defendant and in civil suit titled as Young

Dream Education Society Versus Danna Ram was filed by present plaintiff in which the defendant denied the execution of the agreement to sell dated 20.06.2018 and therefore without awaiting for the due date i.e. 30.06.2020 the plaintiff filed the present suit for specific performance of agreement to sell.

17. To the contrary, the defendant has denied the agreement to sell in toto and has stated that the defendant has leased out his land to the plaintiff for running of a School and in a grab of taking signature for management purposes, the plaintiff used to take signature of the defendant on blank papers and therefore, the present agreement has been forged by the plaintiff on such blank papers on which the signature of the defendant has been taken by deceit. He alleges that he has not received any money nor executed any agreement in favour of the plaintiff.

18. In order to prove his case, the plaintiff examined Gurjit Singh (Attorney holder of plaintiff Jaswinder Singh) as PW1, Shamsher Singh as PW2, Sh. R.V. Vashistha Handwriting and Fingerprint Expert as PW3, Vinod Kumar Stamp Vendor as PW4 and attesting witness Sanamdeep Singh as PW5. He has examined Shamsher Singh to prove the extension of the date of agreement to sell. He further examined to prove the signature of the agreement to sell and finally, the plaintiff examined Vinod Kumar Stamp Vendor qua the purchase of the stamp papers and finally the attesting witness of the agreement to sell Sanamdeep Singh. It is worth mentioning here that witness Sanamdeep Singh has not supported the case of the plaintiff and has

turned hostile. It is worth noting that the scribe of the agreement to sell has not been examined by the plaintiff to prove the writing of the agreement to sell. The plaintiff alleges that the agreement to sell was executed at Tehsil Complex. In such circumstances, it is not difficult for the plaintiff to examine the Deed Writer or the person who has scribed the agreement to sell. However, despite clear denial regarding the execution of agreement to sell by the defendant, the plaintiff has not examined the scribe of the document to prove the said agreement. Examination of scribe in the present case also attains importance as the description of the property in the agreement to sell is missing.

19. A careful perusal of the agreement to sell shows that as per the agreement Danna Ram agreed to alienate property in Khatauni No. 7/29 total khewat 103 Kanals 6 Marlas of his share amount to 240/6026 which comes approximately 12 kanals in favour of the plaintiff. However, the khasra number, the village and tehsil where the property is situated is nowhere mentioned in the agreement. The agreement is unique in its own kind as the property which is to be sold by way of said agreement is not defined in the agreement. The plaint of the plaintiff carries specific khasra number qua which the plaintiff is seeking specific performance of agreement to sell. But these khasra numbers along-with village, tehsil is missing in the said agreement to sell. Therefore, prima facie the agreement of the plaintiff suffers from material discrepancy wherein the description of the property is not properly given. Also no explanation has come on record qua the same by

the plaintiff. In such circumstances, the actual enforcement of such an agreement becomes next of impossible by the court as the property against which the agreement is to be enforced is not specified. The property agreed to be sold i.e the khasra number have not been mentioned in the agreement to sell. This is important in light of fact that Khewat Khatauni number changes with each jamabandi. Now, the agreement in question does not refer to any jamabandi from which the Khewat Khatuani number have been taken. Once neither the jamabandi from which the Khewat Khatuani number have been taken nor the khasra number or the village where the property is situated has come on record the property agreed to be sold by way of the said agreement is not clear and the same is a major lacuna in the drafting of the agreement itself and therefore, it was incumbent upon the plaintiff to examine the scribe of the agreement to sell clarify these facts. However, for reasons best known to the plaintiff, he has not examined the scribe of the document.

20. In ***Hans Raj Tuteja v. Parwati 2018(2) PLR 367*** it has been held by the Honorable Punjab and Haryana High Court

“So far as agreement is concerned, learned Additional Civil Judge (Sr. Division), Hansi as well as First Appellate Court have given reasons based on facts while terming the same as forged and fabricated document. Finding of fact recorded by Courts below is based on evidence on record. Stamp paper on which agreement was scribed is shown to have been purchased

by husband of defendant no. 1-Parwati. The stamp vendor was not examined. Agreement was not scribed by a regular deed writer. It has been scribed on stamp paper purchased for execution of an affidavit. The land is situated at Hansi. Marginal witnesses are not of Hansi and there is no explanation that despite availability of deed writers and advocates at Hansi why agreement was prepared at Bhiwani. Facts and circumstances as enumerated above speak in volume about fabrication of agreement by plaintiff. It appears that same stamp paper lying with husband of defendant no.1 was used to create this document. On going through facts and circumstances as discussed in detail by Courts below, I find no infirmity in findings recorded by both the Courts below terming the agreement as forged and fabricated document.”

21. The plaintiff has examined the stamp vendor who has sold stamp papers of agreement to sell. Further interesting fact qua agreement to sell is that at no place the purpose of the stamp papers is mentioned. The same is only mentioned in the register of the stamp vendor Ex. P4 where it is written that the said document is for an agreement. However, on the back-side of the first page of the agreement to sell/stamp papers, the purpose for which the stamp papers have been purchased is missing. In normal parlance whenever the stamp papers are sold by the stamp vendor, the purpose for which the stamp papers are issued is written on the back-side of the first

page of the stamp papers. However, in the present case, no such purpose was written on the back-side of stamp paper and reason for omission is remains unexplained on record. Also a careful perusal of the agreement to sell shows that the same contains 4 pages out of which the agreement to sell is scribed only on 2 pages. However, Danna Ram i.e. defendant's signatures on all 4 pages. What was the need to sign the remaining 2 pages of the agreement by the defendant remains unanswered on record. Further if the defendant had signed the said empty pages then why only the defendant has signed the said pages and not the plaintiff remains unanswered on record.

22. The next major lapse in case of the plaintiff is that attesting witness Sanamdeep Singh has not supported the case of the plaintiff. Sanamdeep Singh was declared hostile at the request of counsel for the plaintiff. Sanamdeep Singh in his evidence has categorically stated that neither the agreement to sell was executed in his presence nor he knows anything about the transfer of sale consideration and that he signed the agreement merely on asking of the plaintiff. He further states that he neither saw the plaintiff nor the defendant sign the agreement , nor he saw the other attesting witness sign the agreement. He also does not remember the dates of execution of the agreement and has denied the due attestation of the agreement by him. In such circumstances, the purpose of attestation that the contents of the agreement were read over to the parties admitted by them and signed in the presence of attesting witness is not proved on record. the identity of the persons signing is also not admitted.

23. Further attesting witness Ratia Ram Numberdar has already expired but no legal heir of the said attesting witness has been examined to prove the signature of Ratia Ram Numberdar on said agreement. The only living attesting witnesses of the alleged agreement has not supported the case of the plaintiff qua the agreement to sell. Thus, the agreement in question remains unproved on record. The attesting witnesses has denied the due attestation and therefore, the agreement is shrouded in suspicion.

24. Another interesting fact to be noted in the present case is that the said witness clearly states that no sale consideration was passed by the plaintiff to the defendant in his presence whereas Shamsher Singh PW2 states that he knows about the payment made by the plaintiff to the defendant but in his cross-examination Shamsher Singh has himself admitted that he was not present on the date when the agreement to sell was executed. The defendant has denied the passing of the consideration and except for the self serving statement of PW1 there is nothing on record to prove the passing of the sale consideration. The plaintiff claims that he had paid the amount of Rs. 8,00,000/- in cash which was denied by the defendant. The attesting witness Sanamdeep Singh has not supported the version of the plaintiff regarding payment of money. Further, PW2 Shamsher Singh was also not present at the time of execution of said agreement. Interestingly, PW1 who the the Special Power of Attorney-holder of Jaswinder Singh claims that he was present at the time of execution of the agreement and the payment of the said money. However,

there is no evidence to prove the same and neither the agreement bears his signatures to prove his presence. It is worth noting that mere self serving statement of power of attorney-holder does not prove the passing of sale consideration. The plaintiffs were required to prove by way of independent witness the passing of the sale consideration to the defendant by the plaintiff. However, no evidence has been led on record qua the said passing of sale consideration. In ***Surjit Singh v. Mukhtiar Singh 2015(76) RCR Civil 445*** it has been held:

“6. A presumption that may arise from the proof of execution of an agreement does not extend to the proof of passing of consideration. The onus, therefore, to prove the passing of consideration, as the initial onus lay upon the appellants. The appellants having failed to discharge this onus, the first question is accordingly answered against the appellants.”

25. The plaintiff has examined PW2 Shamsheer Singh qua the extension of time which is recorded on the back-side of first page of agreement to sell. However, it is worth noting that when the execution of agreement to sell is shrouded in suspicion then the extension of time per se will not validate the said agreement. Perusal of the extension recorded on the back-side of the first page of the agreement to sell states that the date of the agreement is extended to 30.06.2020 with the consent of the parties and the remaining conditions shall remain the same. This extension nowhere proves passing of the sale consideration on 20.06.2018 by the plaintiff to the defendant. Furthermore, the plaintiff has paid Rs. 8,00,000/- for the

property on 20.06.2018 and the date fixed for execution of sale deed on 20.06.2019, why the plaintiff took time of one year to execute the sale deed remains unanswered on record. Was there any loan on the property which was to be removed or was the sale consideration to be arranged by the plaintiff or any other circumstance which led to a period of one year gap between the execution of the agreement and the actual sale deed remains unexplained on record. Furthermore, on 20.06.2019 when time of sale deed was extended to 30.06.2019 no explanation has come on record as to why the time was extended. In such circumstances, the agreement in question is shrouded in suspicious circumstances. The property to be sold by way of agreement is not proved on record neither mentioned in the agreement itself. The attesting witness of the agreement has not supported the case of the plaintiff to prove the due execution of the agreement to sell and passing of the sale consideration the payment of Rs. 8,00,000/- as earnest money has also not been proved in the present case.

26. It is worth noting that Jaswinder Singh himself has not come present in the present case to prove his case and has given his power of attorney to Gurjit Singh. When questioned as to the capacity to pay the amount of Rs. 8,00,000/- to the defendant, the PW1 (power of attorney-holder of Jasiwndr Singh) said that the amount was lying in cash at their house since they deal in sale and purchase of tractors but he cannot produce any documentation to prove the sale of tractor which has resulted the accumulation of amount of Rs. 8,00,000/- with the plaintiff. Modifying his

version, the witness further stated that the tractor sold by them was old tractor but the same is uncorroborated on record by way of any evidence. Also, it remains unanswered on record by the witness that when the agreement to sale was scribed and executed at the Tehsil Complex Khanauri why the same was not registered or at least notarized by any person.

27. There are multiple contradictions in the versions of plaintiff witnesses. Gurjit Singh PW1 power of attorney-holder of Jaswinder Singh says that he was present at the time of noting down the extension on 20.06.2019 whereas PW2 Shamsher Singh categorically states that Gurjit Singh was not present and only Ratia Ram Numberdar, Jaswinder Singh, he himself, Danna Ram and Partap Singh father of Jaswinder Singh were present at the time of said extension. Thus, shrouding the conduct of PW1 Gurjit Singh in suspicion.

28. An out of ordinary fact to be noted in the present case is that it is the version of the plaintiff witnesses including Vinod Kumar Stamp Vendor that the extension of time on 20.06.2019 has been written/scribed by him on the back-side of the first page of the agreement. However, this conduct remains unexplained on record. Stamp paper as per the plaintiff had been already purchased from the stamp vendor on 20.06.2018 at the time of execution of the alleged agreement to sell. The extension of time was allegedly recorded on 20.06.2019. Then what was occasion for the plaintiff and witness to go to the stamp vendor on 20.06.2019 to get recorded the extension of time from the stamp vendor remains unexplained on record. It

is not the case of the plaintiff that stamp vendor is a regular deed writer or the scribe or that it was the stamp vendor who had scribed the agreement also. The extension could have been easily written by any of the parties present or by any regular deed writer. However, no reasons has come on record that why the parties would specially go to the stamp vendor for getting the extension of time recorded when there was no other reason or occasion to visit the stamp vendor on the said date. All these facts when seen in light of the fact that the scribe of the agreement has not been examined, the passing of sale consideration is not proved and that the defendant has denied that execution of the agreement and the attesting witness has not supported the case of the plaintiff makes the defence of the defendant plausible that the plaintiff had misused his blank signed stamp papers.

29. Thus in light of the discussion above, when the plaintiff could not establish his case and he is not entitled to the discretionary relief of the Court. **The Hon'ble Supreme Court of India in *Lourdu Mari David vs Louis Chinnaya Arogiaswamy* 1997(1) R.C.R. (Civil) 286** has held as follows:-

“It is settled law that the party who seeks to avail of the equitable jurisdiction of a Court and specific performance being equitable relief, must come to the Court with clean hands; In other words the party who makes false allegations does not come with clean hands and is not entitled to the equitable relief. The Division Bench has pointed put in the

judgment three grounds which disentitle the plaintiff to the equitable relief as he came with a positive case of incorrect and false facts as set put in para-graphs 4 to 6 thus:

"On a perusal of the records we are entirely in agreement with the view expressed by the learned Judge. It is quite clear that the plaintiff has not come to Court with clean hands. There are three circumstances which are pointed out by the learned Judge and we find that they are sufficient to warrant refusal of the claim for specific performance. First is that the plaintiff claimed that he was already in possession of Door. No. 2/53 as a lessee and he was given possession of Door No. 1/53 on the date of the agreement itself, viz., 18.10.1976 by defendants 1 and 2. But, in the course of evidence he did not say anything about taking possession pursuant to the sale agreement. On the contrary, he deposed falsely that he did not mention in the plaint about getting possession of Door No. 1/53 on . 18.10.197.6. It is mentioned in the evidence that Door No. 1/53 was not given to the plaintiff at any time in December, 1976, The tenant who was occupying the said portion has vacated the same and gave possession to defendants 1 and 2 who is turn handed over the same to third defendant. Thus, the case of the plaintiff regarding possession of Door No. 1/53 is false. Learned counsel contends that there was no mention in the plaint as to the date on which he took possession of Door No. 1/53. This contention is not Correct. In paragraph 5 of the plaint it is mentioned specifically that in pursuance of the agreement, the plaintiff who was in possession of item No. 2 was given possession of item No. 1 on that date and that he was in possession of both the items since then under the agreement dated 18.10.1976. This plea is clearly false. DW-3

who was occupying Door No. 1/53 has given evidence that the portion was vacated on 12.12.1976 by his father by taking a sum of Rs, 2500 from the prior owner. The plaintiff has himself stated as PW-1 that the tenant delivered possession to the owner of the property on 15.12.1976. That relied his case that he had taken possession even on the date of agreement viz., 18.10.1976. But, in another place P.W. 1 has stated that the tenant of Door No. 1/53 vacated the portion on 5.12.1976. Thus, his evidence is not only false, but also discrepant.

5. The second circumstance is that the plaintiff has made an express allegation in paragraphs 7 and 9 of the plaint that he informed the third defendant in the first week of December 1976 about the agreement when the third defendant inspected the house for the purpose of purchasing the same. This plea is also false, P.W. 1 has not chosen to make a whisper about this in his deposition. On the other hand, it is contended that there is no denial of the said allegation in the written statement but it is not correct. In the written statement, the third defendant has clearly stated that at no time he had any talk with the plaintiff and he was never informed about the agreement with the plaintiff.

6. The third circumstance is that the plaintiff claimed that he had paid a sum of Rs. 400 in addition to the sum of Rs. 4,000 paid as advance to the second defendant at the latter's request for vacating Door No.1/53. In the deposition he had stated that he had mentioned the same, in his plaint, but it is not SO. It is also a false plea as found correctly by the teamed Judge. The above three circumstances are sufficient to uphold the refusal of specific performance, It has been held by this Court repeatedly that a person who has come to Court with a false

plea is not entitled to the equitable relief of specific performance,"

30. Since, the plaintiff could not prove his case, he is not entitled to relief of specific performance of agreement to sell. The plaintiff could not prove any right over the property in question and cannot be granted any relief of permanent injunction qua the said property. The agreement to sell could not be proved to be genuine and it appears that blank signed papers of the defendant have been misused by the plaintiff to executed the agreement to sell. The plaintiff could not prove the passing of sale consideration to the defendants and therefore, is not entitled to the relief of recovery also. Therefore, in light of the discussion-above, the plaintiff could not prove due execution of agreement to sell, passing of sale consideration and is therefore not entitled to either specific performance of agreement to sell or to any relief of injunction or to the alternative relief of recovery. Therefore, all these issues are decided in favour of the defendants and against the plaintiff.

Issue Nos. 3:

31. The onus to prove these issue was on plaintiff. In the present case, the agreement to sell was executed on 20.06.2018. The date of filing of the present suit is 06.03.2020 which is within 3 years from the date of agreement and denial by the defendant qua execution of the agreement and hence, the suit of the plaintiff is within limitation. The plaintiff has affixed ad volerm court fees of Rs. 65,100/- and the suit of plaintiff is therefore properly valued for the purpose of court fees and jurisdiction. Therefore, the

suit of the plaintiff is maintainable and this issue is decided in favour of the plaintiff and against the defendants.

Issue no.4, 5 and 6:-

32. The onus to prove these issues was on defendants but no evidence has been led in this regard. Accordingly, these issues are decided against the defendants and in favour of the plaintiff being not pressed.

Issue No.7 (Relief):

33. In view of the discussion above, the suit of the plaintiff stands **dismissed**. The plaintiff is not entitled to specific performance of agreement to sell nor he is entitled to any alternative relief of recovery. Further since the plaintiff could not prove any right over the property in question, he is also not entitled to any relief of permanent injunction qua the property in question. Decree sheet be drawn up accordingly. File be consigned to the record room.

Pronounced in open court:
20.03.2026
(Manoj Kumar Stenographer-II)

(Ankita Gupta)
Civil Judge (Junior Division)
Moonak (UID No.PB0524)