

Rohtash versus Mimlesh etc.

**IN THE COURT OF PRATIBHA MAHLA
CIVIL JUDGE (JUNIOR DIVISION)
SAMALKHA (UID No.HR0516)**

Civil Case No.333 of 2022

CIS No.630 of 2022

CNR No. HRPPA0-000749-2022

Date of Institution: 18.11.2022

Date of Decision: 19.08.2025

Rohtash son of Suba son of Baru resident of Village Khojkipur, Tehsil Bapoli,
District Panipat.

...Plaintiff

Versus

1. Mimlesh wife of Pawan Singh son of Amar Singh resident of Village Khojkipur Kalan, Tehsil Bapoli, District Panipat.
2. State of Haryana through its Collector, Panipat.
3. Sub-Registrar/ Tehsildar, Bapoli, Tehsil Bapoli, District Panipat.

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...Defendants

**SUIT FOR DECLARATION ALONGWITH CONSEQUENTIAL RELIEF OF
PERMANENT INJUNCTION**

Present: Sh. Bhupender Singh, Advocate for plaintiff.
Sh. Mange Ram Rawal, Advocate for defendant no. 1.
Sh. Ankur Kumar, GP for defendants no. 2 and 3.

JUDGMENT

Plaintiff has filed the present suit seeking following reliefs:-

- A. Relief of declaration to the effect that the plaintiff is owner in possession of the agriculture land, being 73/720 share comprising in khewat No. 15, Khatoni No. 17, Rect. No. 39, Killa No. 11(8-16) i.e measuring 17M-8S and being 73/720 share of land comprising in khewat No. 17min, khatoni no.

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19min, Rect. No. 38, Killa No. 15(8-16) i.e 17M-8S total land measuring 1K-15M-8S situated within revenue estate of Village Raimal, Tehsil Bapoli, District Panipat vide jamabandi for the year 2019-20 and alleged sale deed bearing Vasika No. 702 dated 07.07.2022 and mutation No. 1212 sanctioned on 12.08.2022 alongwith other share and it's all other subsequent revenue entries are wrong, illegal, null & void, ab-initio and not binding upon the rights of the plaintiff.

B. Consequential relief of permanent injunction restraining the defendants forever from alienating, transferring, mortgaging, gift or creating any type of charge etc. over the suit property on the basis of wrong revenue entries and also restrained the defendant no.1 from interfering in the peaceful possession over the suit property.

2. Precisely, the case of the plaintiff is that plaintiff and husband of defendant no.1 were known to each other belonging to nearby villages and had cordial and friendly relations with each other and as such plaintiff had good faith and truest towards the husband of defendant no.1. That husband of defendant no.1 used to visit the house of the plaintiff and had asked him to sell some share of their agriculture land in the name of his wife i.e. defendant no.1. In view of the friendly relations and behaviour of husband of defendant no.1, plaintiff agreed to sell some share of his agriculture land in favour of defendant no.1 and executed and registered alleged sale deed bearing vasika no.702 dated 07.07.2022 in lieu of total sale consideration amount of Rs.2 lacs in favour of

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defendant no.1 qua the suit property. That in the alleged sale deed defendant no.1 had mentioned two cheques bearing nos. 000004 and 000005 dated 15.06.2022 drawn on HDFC Bank and defendant no.1 had assured the plaintiff that after execution of the alleged sale deed both the cheques would be handed over to plaintiff but did not do so. Thereafter, plaintiff demanded his sale consideration amount of Rs.2 lacs after the execution and registration of alleged sale deed but defendant no.1 again assured the plaintiff that they would hand over the said cheques to the plaintiff at home but finally refused to do so. Due to such wrongful act and misconduct of defendant no.1 and her husband, plaintiff withheld the actual and physical possession of suit property till date as he is in cultivating possession and has not been delivered to defendant no.1. That neither the sale consideration amount was ever transferred to the plaintiff nor the physical possession of the suit land was delivered to the alleged vendee. Thereafter, legal notice upon defendant no.3 was got served regarding the said dispute on 24.08.2022 with a request to cancel the alleged sale deed bearing vasika no.702 dated 07.07.2022 and not get the mutation entered and sanctioned on the basis of illegal sale deed. However, it was informed by defendant no.3 in reply to the legal notice that mutation no.1212 had been entered and sanctioned on the basis of alleged sale deed dated 07.07.2022. It was only after the reply dated 15.09.2022 that plaintiff came to know as to the sanctioning of alleged mutation no.1212. The alleged sale deed bearing vasika no.702 dated 07.07.2022 was illegal as it was result of undue influence and

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without any transaction of sale consideration amount and delivery of actual and physical possession. That defendant no.1 along with some bad elements also visited the spot on 31.10.2022 and tried to dispossess the plaintiff from suit property forcibly and illegally but could not succeed in their ill mission due to timely intervention of respectable of the society. That since defendant no.1 failed to accede the genuine request of the plaintiff to get the alleged sale deed cancelled/set aside therefore, plaintiff was constrained to file the present suit.

3. Upon notice, defendant no.1 appeared and filed his written statement raising preliminary objections with regard to maintainability of the suit, lack of locus standi and cause of action, suppression of true and material facts, estoppel, etc. On merits, the relationship between plaintiff and husband of defendant no.1 as to familiarity was admitted. It was also admitted that defendant no.1 had purchased the suit property from the plaintiff. It was however contended that before the registration of sale deed, defendant no.1 had issued two cheques bearing no.000004 and 000005 dated 15.06.2022 drawn on HDFC Bank. However, plaintiff being in need of money in cash due to marriage in his family, had requested defendant no.1 to arrange for the cash. That defendant no.1 had paid an amount of Rs.2 lacs to the plaintiff in cash after arranging it and plaintiff in return had handed over both the cheques to defendant no.1. It was further submitted that there was marriage of two daughters of plaintiff and therefore, he was in need of money and had himself offered to sell his agriculture land to defendant no.1. It is then that defendant

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had come into contact with the plaintiff and after negotiation with each other defendant no.1 had purchased the suit land from the plaintiff. Thereafter, the sale deed bearing vasika no.702 dated 07.07.2022 was executed and registered, consequent to which mutation no.1212 was sanctioned on 12.08.2022 in favour of defendant no.1. That plaintiff had transferred the suit property out of free will and consent. That physical possession of suit property was received by defendant no.1 on the date of execution of sale deed dated 07.07.2022 and since then she is in physical possession of the suit property and cultivating it. That after the execution of the sale deed, the said mutation was duly entered in the revenue record by the revenue official. That since defendant no.1 is only in possession of the suit property, therefore, there arose no question of dispossession of the plaintiff from the suit property. Denying rest of the assertions of the plaintiff, a prayer for dismissal of the suit with costs was made.

4. Upon notice, learned GP appeared for defendants no.2 & 3 and filed their written statement raising preliminary objections with regard to maintainability of the suit, lack of locus standi and cause of action, suppression of true and material facts, estoppel, mis-joinder of necessary party, non service of notice u/s 80 CPC etc. On merits, it was submitted that defendants no.2 and 3 being the Registering authority had registered sale deed bearing vasika no.702 dated 07.07.2022 by defendant no.3 on its presentation by the parties when they had personally appeared before defendant no.3. Due enquiry was

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made from the plaintiff as to payment, upon which he stated to have already received the consideration amount from defendant no.1 and the cheques bearing no.000004 and 000005 both drawn on HDFC Bank. Upon such satisfaction only the said sale deed was registered. That defendants no.2 and 3 have nothing to do with the alleged transaction between the parties and had already replied to the legal notice by stating that mutation no.1212 had already been entered and sanctioned on the basis of sale deed dated 07.07.2022. It was further submitted that after registration of sale deed, the said mutation was entered in the revenue record by their official. Denying rest of the assertions of the plaintiff, a prayer for dismissal of the suit with costs was made.

5. Replication to written statement of defendant no. 1 was filed controverting the contentions of defendant no. 1 and reiterating that of the plaint. From the respective pleadings of the parties, following issues were framed vide order dated 31.05.2023:-

1.	Whether the plaintiff is entitled to a decree for declaration as prayed for?OPP
2.	Whether the plaintiff is entitled a decree for permanent injunction as prayed for?OPP
3.	Whether the present suit is not maintainable? OPD
4.	Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD
5.	Whether the plaintiff has not come with clean hands and has concealed the true and material facts?OPD
6.	Whether the plaintiff is estopped from filing the present suit by his own acts and conduct? OPD
7.	Relief.

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6. In order to prove his case, Rohtash (Plaintiff) PW1 tendered in evidence his affidavit Ex.PW1/A, reiterating the contents of the plaint not being reproduced for the sake of brevity. PW1 Rohtash also tendered the following documents:-

1.	Copy of sale deed bearing Vasika No. 702 dated 07.07.2022 between plaintiff and defendant no. 1.	Ex.P1
2.	Copy of jamabandi for the year 2019-20	Ex.P2
3.	Copy of mutation No. 1212	Ex.P3
4.	Legal Notice dated 24.08.2022 and receipt	Ex.P4

7. Thereafter, plaintiff examined PW2 Sunil Kumar, Registry Clerk, Tehsil Bapoli, District Panipat, who proved sale deed bearing Vasika No. 702 dated 07.07.2022 between plaintiff and defendant no.1 as Ex.P1, and certified copy of sale deed bearing Vasika No. 702 dated 07.07.2022 between plaintiff and defendant no. 1 as Ex. PW2/A and legal notice dated 24.08.2022 as Ex. P4.

8. Plaintiff also got examined PW3 Parveen Patwari, Village Khojkipur, Tehsil Bapoli, District Panipat who proved certified copy of mutation No. 1212 as Ex. PW3/A, legal notice Ex. P4 and Endorsement, Ex. P5. Thereafter, learned counsel for plaintiff closed the evidence vide separately recorded statement dated 27.08.2024.

9. On the other hand, Mimlesh (defendant no. 1), Pawan Singh son of Amar Singh and Sourabh Sharma, Naib Tehsildar/Sub-Registrar, Bapoli, Tehsil Bapoli, District Panipat (defendant no. 3) were examined as DW1 to DW3 and they tendered in evidence their affidavits Ex.DW1/A, Ex. DW2/A and

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Ex.DW3/A respectively maintaining the stand taken in the written statement maintaining and supporting the stand taken in their respective written statements.

10. Thereafter, evidence of defendants was closed by Court order dated 04.07.2025 as despite availing sufficient opportunities, defendants failed to conclude their evidence.

11. No evidence in rebuttal was led. Ld. Counsel for the plaintiff tendered marriage card as Ex. P5 in rebuttal evidence closed the same vide his separate statement on 19.08.2025. Accordingly, arguments were heard and the case file was perused carefully. My issue-wise findings with reasons thereof are as under:-

Issues No.1 and 2

12. Both these issues being interconnected are taken up together. Onus to prove these issues was upon the plaintiff. It is the case of the plaintiff that he did not receive the sale consideration vide cheque no 000004 and 000005 dated 15.6.2022 drawn on HDFC Bank as mentioned in the impugned sale deed bearing vasika no.702 dated 07.07.2022 executed by plaintiff in favour of defendant no.1. Ld.counsel for plaintiff argued that even possession of the suit property has not been handed over to defendant no.1 and as such the sale transaction was incomplete. That since sale consideration was not received by the plaintiff as stated in the impugned sale deed therefore, that he sent a legal notice to defendant no.3 (Tehsildar/Sub-registrar, Bapoli) on 24.8.2022 (Ex.P4)

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for cancellation of the said sale deed and mutation if any but then came to know the mutation no. 1212 consequent to the impugned sale deed had been entered and sanctioned as per reply. It was further argued that though defendant has raised suggestion during cross-examination as to loan taken in cash for meeting marriage expenses of daughters of plaintiff (PW1) in 2019 but the since the impugned sale deed had only been executed in 2022 therefore there arose no occasion for the plaintiff for having taken the cash amount in lieu of the impugned sale deed as there was no such need at that time. It was further argued that the court fees had also been paid as per the sale consideration mention in the impugned sale deed and if the plaintiff did not have a genuine ground to contest the present suit, he would not have paid such court fees. It was therefore argued that the reliefs prayed for be granted and suit be decreed.

13. On the other hand, ld. Counsel for defendant no.1 contended that impugned sale deed could not be set aside only on the ground of non-payment of sale consideration by placing reliance on section 54 of Transfer of Property Act, 1882 (in short referred to as the “TPA”). Further, the version of the plaintiff is itself not consistent as to the sale consideration as from the pleading in the plaint it has been mentioned to be Rs. 2,00,000/- but during cross-examination PW1 has put forth the sale consideration to have been Rs. 7,00,000/- of which Rs. 5,00,000/- had to be given in cash. As to the cheques as mentioned in the impugned sale deed, it was contended that those cheques were returned by plaintiff after he received such amount in cash from defendant no.

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1. The relationship between plaintiff and defendant no. 1 has been admitted but it was the plaintiff who on account to meet the expenses incurred for marriage of two daughters had offered the suit land for sale. The said cheques were neither in the possession of the plaintiff nor had been encashed as plaintiff had taken cash amount from defendant no. 1 to the extent of the amount mentioned therein. It is the plaintiff who despite taking the payment in cash has filed the present suit to harass defendant no.1. If in fact plaintiff had any substance to support the non-payment of sale consideration, he could have moved a complaint to the police but neither has he sought recovery of unpaid sale consideration nor filed any complaint against the plaintiff. As to the relief of permanent injunction sought, it was argued that the since defendant no. 1 was in possession of the suit land there was no occasion for any perceived threat to the plaintiff. The stance of defendant no. 2 and 3 had been that the sale transaction had occurred as mentioned in the impugned sale deed and such facts had been verified. It was accordingly prayed that plaintiff was not entitled to the reliefs prayed for and dismissal of the suit was sought with costs.

14. I have considered the rival submissions of the parties in light of evidence led on record.

15. The first question which comes up for consideration is whether the sale deed bearing vasika no 702 dated 07.07.2022 and mutation no. 1212 sanctioned on 12.8.2022 could be set aside on account of non-payment of sale consideration as mentioned therein and being without delivery of possession

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even though so stated.

16. In this context, the averments in the plaint demonstrate that the facts of execution of the sale deed, registration thereof and that parties were known to each other are not in dispute. The term “sale” is defined under Section 54 of the TPA to mean transfer of property for consideration paid or consideration promised or consideration partly paid and partly promised. That a sale has to be for a price, either paid or payable in future and partly paid and partly payable in future. That only a sale without price is void. As such the provision does not contemplate that sale transaction shall be complete only on payment of entire sale consideration. The transfer of property is complete, the moment the sale deed executed is duly registered in accordance with law. As such the consequence of failure on the part of the purchaser to make payment of entire agreed sale consideration does not ipso facto result in cancellation of sale. Reliance in this regard is placed on case titled as **Dahiben versus Arvindbhai Kalyanji Bhanushali (D) thr. L.R.s** 2020 (7) SCC 366 , wherein it was held that non-payment of part of sale consideration does not affect validity of the sale. It was further held that once the ownership in the property gets transferred in favour of the purchaser on registration of sale deed, the sale transaction does not stand at naught only because part of agreed sale consideration is not paid.

17. As such the argument of Ld. Counsel of the plaintiff that since the sale consideration was not paid therefore the impugned sale deed was void and

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required to be set aside, cannot be sustained as the terms of sale could always provide for payment of sale consideration in the future or partly in future and the parties were at liberty to defer such payment of price on settled terms.

18. Coming to the next question as to whether the sale consideration was actually paid or not, the guiding principle is that men may lie but circumstances don't. In the present case, admittedly the cheques as mentioned in the impugned sale deed have not been stated to be in the possession of the plaintiff. The stance of the plaintiff that husband of defendant no.1 convinced him to sell the suit land in favour of defendant no. 1 and out of the familiarity/cordial relation as they were resident of nearby villages, plaintiff agreed to execute the impugned sale deed, is highly improbable because an ordinary prudent person cannot be expected to execute a sale deed without obtaining amount of sale consideration or cheques for payment in future or some sort of security for deferred payment. Had the sale been completely without sale consideration as alleged by the plaintiff, then in such case plaintiff has not explained as to why he did not raise objection before the Naib Tehsildar DW3, who on the other hand has testified that plaintiff had admitted to receipt of sale consideration in form of cheques as mentioned in the impugned sale deed. That defendant no. 1 has stated that the said cheques have not been encashed and were returned by the plaintiff since he received cash in lieu of said cheques on account of his need for marriage in his family and plaintiff had executed sale deed on account of his need for money. Though plaintiff by