

**In the Court of Ms. Supreet Kaur,
Additional Civil Judge (Senior Division), Kapurthala.**

CNR No. PBKP020001572017

Case No. CS/92/2017



Presented on : 09-03-2017

Registered on : 10-03-2017

Decided on : 27-09-2022

Satwinder Singh, aged 44 years, son of Daljit Singh son of Sant Singh,
resident of Village Thikriwal, Tehsil and District Kapurthala.

.....Plaintiff

Versus

1. Pritam Kaur widow of Gurdeep Singh,
2. Gurmej Singh,
3. Avtar Singh,
4. Surinder sons of late Gurdeep Singh son of Sant Singh all residents
Village Thikriwal, Tehsil and District Kapurthala.
5. Prabhot Kaur alias Sarabjit Kaur daughter of late Gurdeep Singh,
wife of Bikramjit Singh, resident of Village Nangli Kalan, P.O.Udo
Nangal, Tehsil Baba Bakala, District Amritsar.
6. Ajit Singh son of Lakha Singh son of Chanan Singh, resident of
Village Thikriwal, Tehsil and District Kapurthala.
7. Punjab & Sind Bank Kapurthala through its Manager,

8. Gurbachan Kaur wife of Balvir Singh son of Sant Singh, resident of Village Thikriwal, Tehsil and District Kapurthala.

.....Defendants.

AMENDED PLAINT

Suit for possession by way of specific performance of the agreement to sell dated 23.07.2015 executed by deceased Gurdeep Singh-predecessor in interest of defendants No.1 to 5 in favour of plaintiff regarding his 7 Kanal 2 Marla of land comprised in Khewat/Khatauni No.3/3 bearing Khasra No.14//16/1/4-0 and Khewat/Khatauni No.150/183 bearing Khasra No.14//15/2/3-2, measuring in total 7 kanal 2 marla as per jamabandi for the year 2012-13 situated in village Thikriwal, Tehsil and District Kapurthala alongwith share in water, rasta and all other incidental right and appurtenants attached thereto, for a total sale consideration of ₹8,87,500/- (at the rate of ₹10 Lakh per acre) out of which ₹5,00,000/- were paid to the said Gurdeep Singh son of Sant Singh as earnest money on 23.07.2015, in presence of scribe and attesting witnesses at the time of execution of agreement to sell dated 23.07.2015 and further an amount of ₹3,00,000/- was paid to said Gurdeep Singh son of Sant Singh vide endorsement dated 20.07.2016; and now balance sale price of

₹87,500/-shall be paid to the defendants No.1 to 5 being legal heirs of deceased Gurdeep Singh at the time of execution/registration of sale deed in favour of the plaintiff as per terms of agreement to sell dated 23.07.2015.

AND

Suit for declaration to the effect that alleged sale deed dated 08.08.2016 allegedly executed by Gurdeep Singh son of Sant Singh in favour of Ajit Singh defendant no.6 is wrong, illegal, null and void, without consideration document and the same is ineffective and inoperative on the rights of the plaintiff and the alleged sale deed dated 08.08.2016 and consequent mutation no.1327 do not effect the rights of the plaintiff over the suit land; now the defendant no.6 shall also join defendants no.1 to 5 in execution/registration of the sale deed in favour of the plaintiff.

AND

Suit for declaration to the effect that the alleged sale deed dated 28.02.2017 allegedly executed by defendant no.6 in favour of defendant no.8 and the consequent mutation no.1331 sanctioned in favour of defendant no.8 are wrong, illegal, null and void, without consideration document and the same are ineffective and in operative on the rights of

plaintiff; and now the defendant no.8 shall also join defendants no.1 to 6 in execution/registration of the sale deed in favour of the plaintiff.

AND

If this Hon’ble Court comes to a conclusion that relief of specific performance cannot be granted for any reason then only in alternative suit for recovery of ₹8,87,500/- fully detailed as under:-

1.	Earnest money paid to Gurdeep Singh at the time of execution of agreement to sell dated 23.07.2015.	₹5,00,000/-
2.	Additional earnest money paid to Gurdeep Singh at the time of execution of endorsement dated 20.07.2016	₹3,00,000/-
3.	Damages for non fulfillment of agreement to sell	₹87,500/-
4.	Total	₹8,87,500/-

along with interest @ 18% per annum from the date of agreement to sell dated 23.07.2015 till realization of decretal amount.

AND

Also suit for Mandatory injunction directing the defendant no.6 to get the 3 kanal of suit land redeemed on payment of mortgage money and interest thereon, which land the defendant no.6 has mortgaged with defendant no.7.

AND

Suit for permanent injunction restraining the defendants No.1 to 7, their agents and employees from selling, transferring or alienating in any manner the land in dispute as fully described above to any person except the plaintiff and also from creating any charge over the same.

Present: Sh.R.K.Arora Advocate for the plaintiff.
Sh.Vikas Opal Advocate for the defendants No.1,3 & 5.
Sh.Babir Singh Talwandi Advocate for the defendants no.7 & 8.
Defendants no.2, 4 & 6 exparte.

JUDGMENT:

1. The plaintiff has filed the present suit for possession by way of specific performance of the agreement to sell dated 23.07.2015 executed by deceased Gurdeep Singh, predecessor-in-interest of defendants No.1 to 5 in favour of plaintiff with regard to sale of land measuring 7K-2M, as fully detailed in the head note of the plaint, suit for declaration to the effect that alleged sale deed dated 08.08.2016 allegedly executed by Gurdeep Singh son of Sant Singh in favour of Ajit Singh defendant no.6 is wrong, illegal, null and void, without consideration document and the same is ineffective and inoperative on the rights of the plaintiff and the alleged sale deed dated 08.08.2016 and consequent

mutation no.1327 do not effect the rights of the plaintiff over the suit land; suit for declaration to the effect that the alleged sale deed dated 28.02.2017 allegedly executed by defendant no.6 in favour of defendant no.8 and the consequent mutation no.1331 sanctioned in favour of defendant no.8 are wrong, illegal, null and void, without consideration document and the same are ineffective and in operative on the rights of plaintiff; and now the defendant no.8 shall also join defendants no.1 to 6 in execution/registration of the sale deed in favour of the plaintiff. or in the alternative suit for recovery of ₹8,87,500/- alongwith interest and suit for mandatory injunction directing the defendant no.6 to get the 3 kanal of the suit land redeemed on payment of mortgage money and interest thereon, which land the defendant no.6 has mortgaged with defendant no.5 and suit for permanent injunction restraining the defendants No.1 to 7, their agents and employees from selling, transferring or alienating in any manner the suit land as fully detailed above except the plaintiff and also from creating any charge over the same.

PLAINTIFF'S CASE

2. In brief, the case of the plaintiff is that the land measuring 7 Kanal 2 marla as fully described in the head note of the plaint above was owned and possessed by one Gurdeep Singh son of Sant Singh, the predecessor-in-interest of defendants No.1 to 5.

3. It is averred that said Gurdeep Singh agreed to sell his 7

kanal 2 marla of land as fully described in the head note of the plaint to the plaintiff for a total sale consideration of ₹8,87,500/-(at the rate of ₹10 Lakh per acre) and for that purposes said Gurdeep Singh duly executed an agreement to sell dated 23.07.2015 in favour of the plaintiff after receiving ₹5,00,000/- as earnest money in presence of scribe and attesting witnesses. The main terms and conditions of the agreement to sell dated 23.07.2015 were/are as under:-

- a) That said Gurdeep Singh agreed to sell his 7 kanal 2 marla of land as fully described in the head note of the plaint along with all other incidental right and appurtenants attached thereto in favour of plaintiff for a total sale consideration of ₹8,87,500/-(at the rate of ₹10 Lakh per acre), out of which, he received ₹5,00,000/- as earnest money in the presence of scribe and attesting witnesses at the time of execution of said agreement.
- b) That the date of 23.07.2016 was fixed for execution/registration of sale deed.
- c) That the plaintiff shall be at liberty to get sale deed executed in his own name or in the name of any person of his own choice.
- d) That in the event of failure of Gurdeep Singh to execute the sale deed on due date, the plaintiff shall be at

liberty to get the sale deed executed through court and in that event the plaintiff shall be at liberty to recover ₹5,00,000/- as damages for non-fulfillment of agreement in addition to the amount of ₹5,00,000/- received by Gurdeep Singh as earnest money.

e) That if the plaintiff – purchaser fails to get the sale deed executed within stipulated time, the earnest money shall stand forfeited.

f) Before the due date fixed for execution of the sale deed said Gurdeep Singh shall be bound to pay the bank loan and to get the suit land redeemed in order to pass clear title in favour of the plaintiff.

4. It is further averred that after the execution of agreement to sell dated 23.07.2015 the plaintiff has always been ready and willing and is still ready and willing to perform his part of the contract i.e. to get the sale deed executed on payment of balance sale price to said Gurdeep Singh. The balance amount of sale price and other necessary expenses required for execution/registration of sale deed etc. were always ready with the plaintiff and the same are still ready with the plaintiff.

5. It is further averred that before the date fixed for execution of the sale deed, when the plaintiff approached said Gurdeep Singh on 20.07.2016 in order to request him to execute a sale deed, then said

Gurdeep Singh asked the plaintiff to give him some more time for execution of the sale deed and he told the plaintiff that he has not paid bank loan and the suit land is still standing mortgaged, rather he requested the plaintiff give him some more money to enable him to get the land redeemed by making the repayment of the bank loan. So under compelling circumstances the date for execution/registration of the sale deed was extended from 23.07.2016 to 31.08.2016 vide endorsement dated 20.07.2016 duly executed by said Gurdeep Singh at the back page of original agreement and vide said endorsement dated 20.07.2016 an amount of ₹3 Lakh was also paid by the plaintiff to said Gurdeep Singh as additional earnest money. Further when on 31.08.2016 the plaintiff asked said Gurdeep Singh to execute the sale deed in his favour as per terms of agreement to sell dated 23.07.2015, then said Gurdeep Singh again pretended that he has failed to get the suit land redeemed and asked the plaintiff to give him some more time. So again an endorsement dated 31.08.2016 was executed by said Gurdeep Singh at the back page of said original agreement vide which the date for execution/registration of the sale deed was extended from 31.08.2016 to 31.01.2017.

6. It is also averred that even after the execution of aforesaid endorsement dated 31.08.2016 the plaintiff several times requested said Gurdeep Singh to execute the sale deed but said Gurdeep Singh continued to linger on the matter on one pretext or the other. Said Gurdeep Singh

died on 05.11.2016 and after his death the plaintiff approached the defendants no.1 to 5 who are the legal heirs of said Gurdeep Singh and in whose favour the mutation regarding estate of Gurdeep Singh has been sanctioned and plaintiff requested them to execute the sale deed in his favour as per terms of the agreement to sell dated 23.07.2015 duly executed by said Gurdeep Singh. The defendants no.1 to 5 firstly assured the plaintiff that they will certainly execute a sale deed in his favour but later on they also started lingering on the matter on one pretext or the other. So ultimately, the plaintiff even served a notice dated 14.12.2016 upon defendants no.1 to 5 requesting them to execute the sale deed in favour of the plaintiff on the due date 31.01.2017 which was fixed vide endorsement dated 31.08.2016. Said notice was replied by Sh.Manu Dev Gautam Advocate on behalf of the defendant no.1 vide reply dated 28.12.2016, in which, with malafide intention she falsely denied the execution of agreement to sell dated 23.07.2015 endorsement 20.07.2016 and endorsement dated 31.08.2016 by said Gurdeep Singh and also made some false averments in said reply. In this way, the defendants no.1 to 5 have refused to execute the sale deed in favour of the plaintiff.

7. It is further averred that even then on 31.01.2017-the date fixed for execution/registration of the sale deed vide endorsement dated 31.08.2016, the plaintiff along with balance sale consideration and other requisite sale expenses remained present in the office of Sub Registrar,

Kapurthala from 9.00 a.m. to 5.00 p.m. for getting the sale deed executed from the defendants no.1 to 5, but the defendants no.1 to 5 did not turn up. Hence, the plaintiff got his presence marked through attestation of an affidavit dated 31.01.2017, duly attested by Executive Magistrate, Kapurthala.

8. It is further averred that thereafter also plaintiff continued to approach defendants no. 1 to 5 requesting them to execute sale deed in his favour, but defendants no.1 to 5 about a week ago, when the plaintiff again approached the defendants no.1 to 5 they disclosed that said Gurdeep Singh during his lifetime had already sold 3 Kanal 0 marla of land out of the suit land to one Ajit Singh defendant no.6 vide sale deed dated 08.08.2016. Thereafter, the plaintiff made some inquiries and came to know about said sale deed dated 08.08.2016 executed by said Gurdeep Singh in favour of defendant no.6 Ajit Singh. However, the alleged sale deed 08.08.2016 is only a false, fictitious and created document and is without consideration document got prepared by said Gurdeep Singh and defendant no.6 in collusion with each other to defeat the rights of the plaintiff. After execution of agreement to sell dated 23.07.2015 said Gurdeep Singh was having no right to sell any part of the suit land to anyone. Moreover, defendant no.6 like other villagers was having complete knowledge of the execution of agreement to sell dated 23.07.2015 by Gurdeep Singh in favour of the plaintiff, so said Ajit Singh

defendant no.6 was also having no right to purchase any part of the suit land from said Gurdeep Singh. As such, the alleged sale deed dated 08.08.2016 is wrong, illegal and is ineffective and inoperative on the rights of the plaintiff, and now the defendant no.6 shall also join defendants no. 1 to 5 in execution/registration of the sale deed in favour of the plaintiff.

9. It is further averred that during the pendency of the suit on filing application under order 1 Rule 101 CPC and on filing of the written statement by defendant no.8 the plaintiff came to know that defendant no.6 had executed a sale deed dated 28.02.2017 in favour of defendant no.8 on the basis of which mutation no.1331 has been sanctioned in her favour. The alleged sale deed dated 28.02.2017 is wrong, illegal, null and void and without consideration document. After executing agreement dated 23.07.2015 in favour of the plaintiff said Gurdeep Singh was not competent to execute the alleged sale deed dated 08.08.2016 in favour of defendant no.6, so the defendant no.6 was also not competent to execute the alleged sale deed dated 28.02.2017 in favour of defendant no.8. The alleged sale deed dated 28.02.2017 as well as the consequent mutation no.1331 are ineffective and in-operative on the rights of the plaintiff. Moreover, the defendant no.8 was also having complete knowledge about the execution of agreement dated 23.07.2015 by Gurdeep Singh in favour of the plaintiff. So now the defendant no.8 shall join defendants no.1 to 6

in execution/registration of the sale deed in favour of the plaintiff.

10. Further it is also averred that now the defendants no.1 to 6 are threatening and trying to further alienate the land in dispute to some third person for which they have no right. If the defendants no.1 to 6 succeed in their evil design the plaintiff shall have to suffer an irreparable loss and injury, which cannot be compensated in terms of money and it will lead multiplicity of suits.

11. It is further averred that after going through jamabandi the plaintiff also came to know that the defendant no.6 has further mortgaged 3 kanal 0 marla of the land out of the suit land with defendant no.7 by taking a loan from said Bank. As such, plaintiff is also entitled to a decree for mandatory injunction directing the defendant no.7 to get the suit land redeemed on payment of mortgage money etc. to the bank so as to pass a clear title to the plaintiff. Hence, the present the suit.

DEFENDANTS' STAND

12. Upton notice, defendants no.1, 3 and 5 appeared through Sh.Vikas Opal Advocate, defendant no.7 and 8 appeared through Sh.Balbir Singh Talwandi Advocate whereas none appeared on behalf of defendants no.2, 4 and 6 and accordingly they were proceeded against vide orders dated 11.04.2017 and 28.11.2017 respectively. However, defendants no.1, 3 and 5 filed written statement taking the preliminary objections that the suit is not maintainable. The plaintiff has got no locus-

standi or cause of action to file the present suit. The alleged bargain/agreement is hard and harsh, hence the plaintiff is not entitled to any relief. The value of the land in dispute was more than ₹25 Lac, so there was no occasion for Gurdeep Singh to agree @ ₹10 Lac per killa. The plaintiff has not come to the Court with clean hands and has suppressed the material facts from this Court. The alleged agreement dated 23.07.2015 and extended agreement dated 20.07.2016 and dated 31.08.2016 are false, forged, fabricated documents and has no binding effects on the rights of the answering defendants. The aforesaid alleged agreement has been forged by the plaintiff in connivance with deed writer and marginal witnesses. Gurdeep Singh son of Sant Singh never entered into any agreement to sell as alleged with plaintiff nor plaintiff paid any amount as earnest money to Gurdeep Singh son of Sant Singh since deceased. The deceased Gurdeep Singh was totally illiterate and simpleton person. The alleged agreement has been forged, fabricated by the plaintiff in order to grab the property of Gurdeep Singh since deceased after his death. Gurdeep Singh son of Sant Singh was never in need of any amount of ₹Five Lac at all. In fact, the land in dispute is a Joint Hindu Family Coparcenery Property and there was no occasion for Gurdeep Singh son of Sant Singh to enter into any such agreement. On merits , it is admitted that the land measuring 7 kanal 2 marlas as fully detailed in the head note is situated in village Thikriwal, Tehsil and District Kapurthala,

which was owned and possessed by one Gurdeep Singh son of Sant Singh-predecessor-in-interest of defendants no.1 to 5. It is averred that aforesaid Gurdeep Singh never agreed to sell his land measuring 7K-2M for a total sale consideration of ₹8,87,5000/-. Aforesaid Gurdeep Singh never executed any agreement to sell in favour of the plaintiff and never received any amount of ₹5 Lac as earnest money in the presence of scribe and marginal witnesses. The alleged agreement dated 23.05.2015 is false, forged, fabricated document and has no binding effects on the rights of the answering defendants. The aforesaid agreement has been forged by the plaintiff in connivance with deed writer and marginal witnesses. The deceased Gurdeep Singh was totally illiterate and simpleton person. Denying all the remaining contentions of the plaintiff as contended in the plaint, the defendant has prayed for the dismissal of the instant suit with costs.

13. Defendant no.7 filed the written statement stating that para no.1 of the plaint is matter of record and denying the contents of para no. 2 to 7 and 9 of the plaint for want of knowledge. It is not denied to the extent that the defendant no.6 purchased some land from Gurdeep Singh but the replying defendant has got no knowledge regarding the date as well as of any detail of the alleged sale deed executed by Gurdeep Singh in favour of defendant no.6. It is also not denied to the extent that the defendant no.6 raised a loan against his land from the replying defendant

no.7 Bank. The defendant no.6 raised a KCC limit of ₹10,00,000/- from the replying defendant no.7 bank against his land situated at village Thikriwal and village Jhal Thikriwal vide mortgage deed dated 06.12.2016 vasika no.1998 and regarding the same lien of the bank was marked in the revenue record vide rapat no.125 dated 08.12.2016. The KCC Limit account maintained with the replying defendant by the defendant no.6 was having account No.01791600222944. The said loan account was closed as the amount of KCC limit was deposited by the defendant no.6 with the replying defendant bank. Now no land out of suit land is under mortgage of the defendant no.6, with the replying defendant Bank. Statement of account for 26.12.2016 to 22.02.2017 is attached. The said loan account was closed before filing of the present suit. On merits, all other averments of the plaintiff have been denied and a prayer for dismissal of the suit with costs has been made.

14. However, defendant no.8 filed written statement taking the preliminary objections that the suit is not maintainable. The plaintiff has got no cause of action or locus-standi to file the present suit, hence the suit is liable to be dismissed. The agreement in question was never executed by Gurdeep Singh son of Sant Singh in favour of the plaintiff. The replying defendant is bonafide purchaser for value without notice. The defendant no.8 had purchased land measuring 3 Kanal being $\frac{3}{4}$ share out of the land comprised in Khasra No.14//16/1/4-0 situated at village

Thikriwal, Tehsil and District Kapurthala from defendant no.6 vide registered Sale deed dated 28.02.2017 bearing Wasika No.3359 and regarding the same mutation no.1331 has been sanctioned. The defendant no.6 purchased the said land from Gurdeep Singh son of Sant Singh vide registered sale deed dated 08.08.2016 bearing wasika no.1484 and regarding the same mutation no.1327 has been sanctioned. It is worth to mention here that there was nothing mentioned in the revenue record regarding the execution of agreement of sale dated 23.07.2015 and regarding the pendency of any suit in respect of land purchased by replying defendant, on the basis of agreement of sale in question. So the replying defendant as well as defendant no.6 are the bonafide purchaser for value without notice. So, the suit is liable to be dismissed. The plaintiff has not come to the Court with clean hands and has suppressed the true and material facts from this Court. On merits, para no.1 of the plaint is stated to be matter of record. It is submitted that Gurdeep Singh never agreed to sell his land during his life time to the plaintiff. The agreement of sale in question was never executed by said Gurdeep Singh in favour of plaintiff. No earnest money was ever received by said Gurdeep Singh from the plaintiff. As no agreement in question was ever executed by said Gurdeep Singh, so question of fixing the terms and conditions does not arise. It is not denied that said Gurdeep Singh sold 3 kanals land out of the suit land to defendant no.6 vide registered sale deed

dated 08.08.2016. The sale deed dated 08.08.2016 is genuine, legal and is a valid document. The defendant no.6 sold the said land measuring 3 kanals to the replying defendant no.8 vide registered sale deed dated 28.02.2017 bearing wasika no.3359 and regarding the same mutation no.1331 was sanctioned. It is vehemently denied that the defendant no.6 was having any knowledge regarding the execution of agreement of sale dated 23.07.2015 . The replying defendant no.8 as well as defendant no.6 are the bonafide purchasers of land measuring 3 kanals noted above, for consideration without notice. The replying defendant is in cultivating possession of that land since the day of its purchase. It is denied that the defendant no.6 executed a sale deed dated 28.02.2017 in favour of replying defendant no.8. It is also incorrect that the plaintiff came to know regarding the execution of sale deed dated 28.02.2017 on filing of application u/o 1 Rule 10 CPC as well as on the filing of written statement by the reply defendant no.8. The sale deed noted above as well as mutation no.1331 are valid, legal and is genuine document as well as order respectively. The agreement in question is a forged and fabricated document. Said Gurdeep Singh never executed any agreement of sale in question in favour of the plaintiff. Gurdeep Singh was having every right to execute the sale deed dated 08.08.2016 in favour of defendant no.6. The defendant no.6 was fully competent to execute the sale deed dated 28.02.2017 in favour of replying defendant. It is also denied that the sale

deed dated 28.02.2017 and mutation no.1331 are ineffective and inoperative. It is further denied that the defendant no.8 was having any knowledge regarding the execution of agreement of sale in question. It is incorrect that the defendant no.8 shall join the defendant no.1 to 6 in execution/registration of sale deed in favour of plaintiff. It is worth to mention here that the replying defendant got executed the sale deed noted above from defendant no.6 and defendant no.6 got executed the above said sale deed from Gurdeep Singh as there was nothing mentioned in the revenue record regarding the execution of agreement of sale dated 23.07.2015 and regarding the pendency of the present suit, at the time of execution of the above said sale deeds. The alleged agreement in question is not binding upon the replying defendant. Denying all the remaining contentions of the plaintiff as contended in the plaint, the defendant has prayed for the dismissal of the instant suit with costs.

ISSUES

15. Replications to the written statements of defendants no.1, 3 & 5 as well as defendant no.7 and 8 were filed separately wherein all the averments of written statement were denied and those of plaint were reiterated. Thereafter, from the pleadings of the parties, following issues were framed by Ld. Predecessor of this court vide order dated 17.09.2018:-

1. Whether Gurdeep Singh predecessor-in-interest of

defendant no.1 to 5 entered into agreement to sell suit land to the plaintiff vide agreement dated 23.07.2015 and received ₹8,00,000/-as earnest money? OPP

2. Whether the plaintiff has been ready and willing and still ready and willing to perform his part of agreement?OPP.
3. Whether the plaintiff is entitled for possession of the suit land by way of specific performance of agreement to sell dated 23.07.2015 or in the alternative for the recovery of ₹8,87,500/-?OPP.
4. Whether the plaintiff is entitled to declaration and mandatory injunction as prayed for ?OPP.
5. Whether the plaintiff is entitled to the permanent injunction as prayed for ?OPP.
6. Whether the plaintiff has not come to the court with clean hands and has suppressed the material facts from this Court?OPD
7. Whether the defendant no.8 is bonafide purchaser for value without notice? OPD
8. Relief.

EVIDENCE

16. In order to prove his case, the plaintiff **Satwinder Singh**

examined himself as **PW1** by way of his duly sworn affidavit Ex.PW1/A and reiterated the entire contents of the plaint. He also proved documents i.e. jamabandi for the year 2012-13 as Ex.P1, original agreement to sell dated 23.07.2015 as Ex.P2, endorsement dated 20.07.2016 as Ex.P3, endorsement dated 31.08.2016 as Ex.P4, copy of notice dated 14.12.2016 as Ex.P5, five postal receipts as Ex.P5/A to Ex.P5/E, reply to notice dated 28.12.2016 as Ex.P6, affidavit dated 31.01.2017 as Ex.P7, attested copy of sale deed dated 08.08.2016 as Ex.P8, photo copy of sale deed dated 15.01.2014 as Ex.P9.

17. Thereafter, the plaintiff examined **Major Singh** son of Kartar Singh, resident of village Thikriwal, Tehsil and District Kapurthala, who stepped into the witness box as **PW-2** and tendered his duly sworn affidavit Ex.PW2/A, who has corroborated the version of PW1 Satwinder Singh. This witness has also identified his signatures on the original agreement to sell dated 23.07.2015 Ex.P2 as marginal witness.

18. Thereafter, the plaintiff examined **Baldev** son of Darshan Singh resident of village Rupanpur, Tehsil and District Kapurthala, who stepped into the witness box as **PW-3** and tendered his duly sworn affidavit Ex.PW3/A, who stated that he knows plaintiff Satwinder Singh. He also knew Gurdeep Singh son of Sant Singh residents of village Thikriwal, who has died now. Said Gurdeep Singh had earlier executed an agreement to sell dated 23.07.2015 in favour of plaintiff vide which said

Gurdeep Singh had agreed to sell his 7K-2M of land to plaintiff after receiving of earnest money of ₹5,00,000/-. Thereafter, vide endorsement dated 20.07.2016 said Gurdeep Singh had further received an amount of ₹3,00,000/- as additional earnest money from plaintiff and had extended the date for execution/registration of the sale deed. He further deposed that he has seen endorsement dated 31.08.2016 which was executed by said Gurdeep Singh at the back page of said original agreement vide which the date for execution/registration of the sale deed was extended from 30.08.2016 to 31.01.2017 and proved the said endorsement dated 31.08.2016 as Ex.P4, which was also got scribed from deed writer Narinderpal Singh Bal, who after scribing the same read over and explained its contents to both the parties and they have attested the same as attesting witnessed and after admitting its contents as correct, said endorsement dated 31.08.2016 was thumb marked by said Gurdeep Singh and it was also signed by plaintiff and it was signed by attesting witnesses by him, Balwant Singh son of Surjit Singh resident of village Boot. An entry of this endorsement was also made by deed writer in his register which was thumb marked by Gurdeep Singh and signed by plaintiff. This This witness has also identified his signatures on endorsement dated 31.08.2016 Ex.P4.

19. Thereafter, the plaintiff examined **Bagicha Singh** son of Khazan Singh resident of village Boot, Tehsil and District Kapurthala,

who stepped into the witness box as **PW-4** and tendered his duly sworn affidavit Ex.PW4/A, who stated that he knows plaintiff Satwinder Singh. He also knew Gurdeep Singh son of Sant Singh residents of village Thikriwal, who has died now. Said Gurdeep Singh had earlier executed an agreement to sell dated 23.07.2015 in favour of plaintiff vide which said Gurdeep Singh had agreed to sell his 7K-2M of land to plaintiff. He has seen endorsement dated 20.07.2016 at the back of aforesaid original agreement dated 23.07.2015. Vide this endorsement dated 20.07.2016 the date for execution/registration of the sale deed was extended from 23.07.2016 to 31.08.2016 and said endorsement was duly executed by said Gurdeep Singh and vide said endorsement dated 20.07.2016 an amount of ₹3,00,000/- was also paid by plaintiff Satwinder Singh to said Gurdeep Singh as additional earnest money and proved the said endorsement dated 20.07.2016 as Ex.P3, which was also got scribed by the parties from deed writer Narinderpal Singh Bal, who after scribing the same read over and explained its contents to both the parties and they have attested the same as attesting witnessed and after admitting its contents as correct, said endorsement dated 20.07.2016 was thumb marked by said Gurdeep Singh and it was also signed by plaintiff and it was signed by attesting witnesses by him, Sukhdev Singh son of Phuman Singh resident of village Thikriwal. An entry of this endorsement was also made by deed writer in his register which was thumb marked by Gurdeep

Singh and signed by plaintiff. This witness has also identified his signatures on endorsement dated 20.07.2016 Ex.P3.

20. Plaintiff further examined **Narinderpal Singh Deed writer**, Tehsil Complex, Kapurthala, who stepped into the witness box as **PW-5** and tendered his duly sworn affidavit Ex.PW5/A and corroborated the version of PW1 Satwinderpal Singh. This witness has stated that he is working as Deed Writer in Tehsil Complex Kapurthala. He has seen the original agreement to sell dated 23.07.2015 Ex.P2 in the Court, vide which Gurdeep Singh son of Sant Singh son of Khazan Singh resident of Jhal Thikriwal, Tehsil and District Kapurthala agreed to sell his 7K-2M of land to plaintiff Satwinder Singh son of Daljit Singh son of Sant Singh resident of village Thikriwal, Tehsil and District Kapurthala for a total sale consideration of ₹8,87,500/-(at the rate of ₹10,00,000/-per acre) after receiving ₹5,00,000/- as earnest money in his presence and attested witnesses. The said agreement to sell dated 23.07.2015 Ex.P2 was got scribed by the parties from him in Tehsil Complex, Kapurthala. He further stated that after scribing the same, he read over and explained its contents to both the parties and attesting witnesses and after admitting the same as correct and after receiving ₹5,00,000/-from plaintiff Satwinder Singh as earnest money in the presence of the attesting witnesses, put his thumb impression over said agreement dated 23.07.2015 and thereafter the said agreement was signed by plaintiff Satwinder Singh being purchaser and

after that the said agreement was signed by attesting witnesses namely Major Singh and Satnam Singh sons of Kartar Singh both residents of village Thikirwal, District Kapurthala. He also signed the said agreement as deed writer. This witness has identified his signature and stamp over the original agreement dated 23.07.2015 and proved the same as Ex.P2. He further deposed that thereafter an entry of the said agreement was also made by him in his register at Sr.No.375 dated 23.07.2015, which was also thumb marked by said Gurdeep Singh and was signed by Satwinder Singh and aforesaid attesting witnesses and proved attested copy of no.375 dated 23.07.2015 of his register as Ex.P2/A. This witness has further deposed that he has also seen the endorsement dated 20.07.2016 at the back page of aforesaid original agreement dated 23.07.2015. Vide said endorsement dated 20.07.2016, the date for execution/registration of the sale deed was extended from 23.07.2016 to 31.08.2016 and said endorsement was duly executed by said Gurdeep Singh and vide the said endorsement dated 20.07.2016, an amount of ₹3,00,000/- was also paid by plaintiff Satwinder Singh to said Gurdeep Singh as additional earnest money and proved the said endorsement as Ex.P3, which was got scribed by the parties from him. He further deposed that after scribing the same, he read over and explained its contents to both the parties and the attesting witnesses and after admitting its contents as correct and after receiving ₹3,00,000/-from plaintiff as additional earnest money, the said

endorsement dated 20.07.2016 was thumb marked by said Gurdeep Singh and signed by plaintiff and attested by Sukhdev Singh son of Phuman Singh resident of village Thikriwal and Bagicha Singh son of Khazan Singh resident of village Boot, District Kapurthala and he also signed the said endorsement as a deed writer. He has also seen the said endorsement dated 20.07.2016 Ex.P3 over which he identified his signature and stamp. An entry of this endorsement was also made by him in his register at Sr.No.602 which was thumb marked by Gurdeep Singh and was signed by plaintiff. He further deposed that again an endorsement dated 31.08.2016 was executed by said Gurdeep Singh at the back of the said original agreement vide which the date for execution/registration of the sale deed was also got scribed from him and he after scribing the same read over and explained its contents to both the parties and the attesting witnesses. After admitting its contents as correct, said endorsement dated 31.08.2016 was thumb marked by said Gurdeep Singh and it was also signed by plaintiff and also signed by attesting witness Balwant Singh and Baldev Singh. He also identified his signatures and stamp on the said endorsement dated 31.08.2016 Ex.P4. He further deposed that an entry of this endorsement was also made by him in his register at Sr.No.723 which was thumb marked by Gurdeep Singh and signed by plaintiff Ex.P4/A.

21. Then plaintiff examined **Jagtar Singh, Registration Clerk, Sub Registrar Office, Kapurthala**, who stepped into the witness box as

PW-6 and stated that he has brought the register maintained by the office of Sub Registrar, Kapurthala, regarding attestation of the affidavit of various persons in the Court file. He has seen one affidavit dated 31.01.2017 Ex.P7 which was executed by one Satwinder Singh son of Daljit Singh son of Sant Singh resident of village Thikriwal, Tehsil and District Kapurthala. This affidavit has been attested by Sh.Pawan Kumar, the then Naib Tehsildar Kapurthala, whose signatures he identified over Ex.P7, as he has worked under him and seen him signing and writing. This affidavit was attested by said Naib Tehsildar/Executive Magistrate, Kapurthala and Sr.No.78/RC dated 31.01.2017 was given on this affidavit regarding attestation. He has brought said register containing entry no.78/RC dated 31.01.2017 regarding attestation of said affidavit by Naib Tehsildar and he identified the signature and stamp of Sh.Pawan Kumar, then Naib Tehsildar, Kapurthala, over the said entry of the register. The register also bears the signatures of Satwinder Singh and one Pritam Singh Member Panchayat of village Thirkiwa, who had identified said Satwinder Singh.

22. Thereafter, plaintiff examined **Surat Singh** son of Ishar Singh resident of village Thikriwal, Tehsil and District Kapurthala, who stepped into the witness box as **PW-7** and tendered his duly sworn affidavit Ex.PW7/A. He stated that he knew Gurdeep Singh son of Sant Singh and Satwinder Singh son of Sant Singh, both residents of village Thikriwal,

Tehsil and District Kapurthala. He has seen the original sale deed dated 15.01.2014 which was executed by said Gurdeep Singh in favour of Satwinder Singh for a sale consideration of ₹4,22,000/-. Said sale deed dated 15.01.2014 was scribed/got typed from deed writer namely Satish Kumar in Tehsil Complex, Kapurthala, who got typed it with the help of Computer at the instance of abovesaid parties. He further stated that after scribing the sale deed, the said deed writer read over and explained its contents to the parties and the attested the same as witnesses and after admitting the same as correct, the said sale deed was thumb marked by purchaser Satwinder Singh and thereafter the said sale deed was signed by him and Balwinder Singh as attesting witnesses, over which he identified his signatures and proved the same as Ex.P10. He further stated that an entry of this sale deed was also made by the said deed writer in his register, which was also thumb marked by Gurdeep Singh and was signed by Satwinder Singh and attested by them. Depositing further, he stated that thereafter the above said parties and the attesting witnesses appeared before the office of Sub Registrar Kapurthala where again the said sale deed was read over and explained to the parties and they attested the same as attesting witnesses, and after admitting the same as correct, said Gurdeep Singh thumb marked over the endorsement of the registration and thereafter said endorsement was signed by purchaser Satwinder Singh and also by them, as attesting witnesses. The payment of the sale

consideration of ₹4,22,000/-was made by Satwinder Singh to Gurdeep Singh in the presence of the Sub Registrar. He further deposed that after completion of the formalities like taking a photographs said sale deed was got registered with the office of Sub Registrar, Kapurthala. He also identified his signatures over the endorsement of registration of said sale deed dated 15.01.2014 and proved the same as Ex.P10/A.

23. Plaintiff also examined **Kuljeet Singh, Registration Clerk, Office of Sub Registrar Kapurthala**, who stepped into the witness box as **Ex.PW-8** and deposed that he is summoned witnesses and has brought the summoned record of sale deed dated 15.01.2014 bearing vasika no.3691 executed by Gurdeep Singh son of Sant Singh resident of village Thikriwal, Tehsil and District Kapurthala. He has seen the original sale deed dated 15.01.2014 Ex.P10 and endorsement of its registration which is Ex.P10/A, which are true and correct as per record brought by him in the Court. He identified the sale deed registered with office of Sub Registrar, Kapurthala and is correct as per record brought by him which is Jilad No.2755, bahi no.1 containing vasika no.3651 to 3700 and in this record at page no.3691 where is annexure 2nd original sale deed dated 15.01.2014. He identified signatures of Sh.Pawan Kumar Sharma, the then Sub Registrar Kapurthala on the original sale deed Ex.P10 and Ex.P10/A. He further deposed that even at present he is working at Sub Registrar, Kapurthala and he has seen him signing and writing.

24. Then plaintiff examined **Arvind Sud, Handwriting and Finger Prints Expert Hoshiarpur**, who stepped into the witness box as **PW-9** and deposed that in this case has examined the questioned thumb impressions marked as Q1 to Q4 of Gurdeep Singh and has compared these interse and with his standard thumb impressions marked as S1 to S3. The details of the documents containing these above mentioned questioned and standard thumb impressions have been given in his report. He further deposed that in his opinion, the questioned thumb impressions marked Q1 to Q3 and standard thumb impressions marked as S1 to S3 of Gurdeep Singh are of the same hand of one and the same person. Hence, Q1 to Q3 and S1 to S3 thumb impressions are identical. He is also of the opinion that questioned thumb impression marked as Q4 is not fit for comparison purposes. Hence Q4 thumb impressions is non comparable. The detail reason for his abovesaid opinion have been given in his report Ex.PW9/A, which is correct and signed by him, which may also be read as part of his statement. He further deposed that he has also mentioned thumb impressions in original and exposed their photographs himself with the permission of this Court, which are total 7 in numbers and have been affixed on a photographic Chart, which is Ex.PW9/B. The points marked on this photographic chart are in his handwriting, correct and signed by him, which are part of his opinion report Ex.PW9/A.

25. Thereafter, plaintiff examined **Satish Kumar, Deed Writer**,

Tehsil Complex, Kapurthala, who stepped into the witness box as **PW-10** and tendered his duly sworn affidavit Ex.PW10/A, vide which, he has stated that he has seen the original sale deed dated 15.01.2014 Ex.P10 in the Court and he identified his signatures and stamp over it and proved the true copy of entry having serial no.29 dated 15.01.2014 as Ex.P10/B, which may be read as part of his examination-in-chief. In his further deposition, this witness has corroborated the versions of PW7 and PW8.

26. Thereafter, plaintiff examined **Kuljit Singh, Registration Clerk, office of Sub Registrar, Kapurthala**, who stepped into the witness box as **PW-11** and deposed that he has brought the register maintained by the office of Sub Registrar, Kapurthala, regarding attestation of various persons in the Court file. He has seen one affidavit dated 31.01.2017, which is Ex.P7 and the same is executed by one Satwinder Singh son of Daljit Singh son of Sant Singh, resident of village Thirkiwal, Tehsil and District Kapurthala and no.78RC dated 31.01.2017 was given on this affidavit regarding attestation. He has also brought the said register containing entry no.78/RC dated 31.01.2017 regarding attestation of affidavit by then Executive Magistrate, Kapurthala. The true and attested copy of the entry no.78/RC dated 31.01.2017 is Ex.PW11/A. This register also bears the signatures of Satwinder Singh and one Pritam Singh, Member Panchayat of village Thikriwal, who identified Satwinder Singh. Jagtar Singh was earlier working in Sub Registrar Office Kapurthala but

he has been transferred now in the office of Talwandi Chaudhrian.

27. Thereafter, plaintiff Satwinder Singh closed his evidence in affirmative by reserving his right to lead evidence in rebuttal.

28. Thereafter, to rebut the case of the plaintiff, the defendant No.1 **Pritam Kaur** herself stepped into the witness box as DW1 and tendered her duly sworn affidavit **Ex.DW1/A** and deposed as per lines of her written statement, which need not be repeated here in order to avoid repetition of facts.

29. Thereafter, the defendants examined **Balwinder Singh** son of Bachan Singh, resident of village Thikriwal, Tehsil and District Kapurthala, as DW2 who by of his duly sworn affidavit **Ex.DW2/A** stated that he is resident of abovesaid address and he knew the parties to the suit very well. He further deposed that the alleged bargain/agreement is hard and harsh, hence the plaintiff is not entitled to any relief. The value of the land in dispute was more than ₹25,00,000/-per killa, so there was no occasion for Gurdeep Singh to agree @ ₹10,00,000/- per killa. He further stated on oath that the plaintiff has not come to the Court with clean hands and has suppressed the material facts from this Court, The alleged agreement dated 23.07.2015 and extended agreement dated 20.07.2016 and dated 31.08.2016 are false, forged, fabricated documents and have no binding effects on the rights of the defendants. The aforesaid alleged agreement has been forged by the plaintiff in connivance with deed writer

and marginal witnesses. Gurdeep Singh son of Sant Singh never entered into any agreement to sell as alleged with plaintiff nor plaintiff paid any amount as earnest money to Gurdeep Singh son of Sant Singh since deceased. The deceased Gurdeep Singh was totally illiterate and simpleton person. He further stated on oath that the alleged agreement has been forged, fabricated by the plaintiff in order to grab the property of Gurdeep Singh since deceased after his death. Gurdeep Singh son of Sant Singh was never in need of any amount of ₹5,00,000/- at all. Deposing further, he stated that the land in dispute is a Joint Hindu Family Coparcenary property and there was no occasion for Gurdeep Singh son of Sant Singh to enter into any such agreement. Aforesaid Gurdeep Singh never agreed to sell his land measuring 7K-2M for a total sale consideration of ₹8,87,500/-. Aforesaid Gurdeep Singh never executed any agreement to sell in favour of the plaintiff and never received any amount of ₹5,00,000/- as earnest money in the presence of scribe and marginal witnesses. Since there was no such alleged agreement executed by Gurdeep Singh in favour of plaintiff, so the question of agreeing upon alleged terms and conditions does not arise at all. He further stated on oath that no alleged threat has ever been given by the defendant to the plaintiff. When there is no agreement to sell in favour of the plaintiff by Gurdeep Singh since deceased, so there arose no question of giving any threat as alleged. The plaintiff has got no concern and connection with the

land in dispute. The plaintiff will suffer no loss or injury what to speak of irreparable loss or injury. The plaintiff has got no cause of action to file the present suit.

30. Then, the defendant no.8 **Gurbachan Kaur w/o Balvir Singh** herself stepped into the witness box as **DW3** who by of her duly sworn affidavit Ex.DW3/A and deposed as per lines of her written statement, which need not be repeated here in order to avoid repetition of facts. She stated that she has brought her original sale deed executed by Ajit Singh son of Lakha Singh, defendant no.6 dated 28.02.2017 Vasika no.3359 in the Court and proved certified copy of the abovesaid sale deed as Ex.DW3/1 and its endorsement regarding registration of the sale deed as Ex.DW3/2, which may also be regard as per of her examination-in-chief.

31. Thereafter, the defendants examined **Simranjit Singh, Registry Clerk, Tehsil Office, Kapurthala**, who stepped into the witness box as **DW-4** and deposed that he has brought the summoned record i.e. Bahi no.1 containing registration record regarding the Vasika no.3351 to 3400 from 27.02.2017 to 02.03.2017. In this registration record, there is record regarding registration of sale deed dated 28.02.2017 bearing Vasika no.3359 regarding the sale of land measuring 3 Kanal situated at village Thikriwal, Tehsil and District Kapurthala, executed by Ajit Singh son of Lakha Singh son of Chanan Singh resident of village Thikriwal, in favour of Gurbachan Kaur w/o Balbir Singh. The abovesaid sale deed has been

duly registered as per record of their office. In the record of their office, which he has brought in the Court, a copy of sale deed has been kept and on the same, the signatures of the parties, marginal witnesses and of registration office are there. This witness has proved certified copy of the abovesaid sale deed as Ex.DW3/1 and endorsement regarding registration as Ex.DW3/2. He further stated that the certified copy has been issued by their office.

32. Thereafter, Sh.Vikas Opal Advocate, learned counsel for defendants no.1, 3 and 5 closed evidence on behalf of defendants no.1, 3 and 5 as well as Sh.Balbir Singh Talwandi Advocate, learned counsel for defendants no. 7 & 8 closed evidence on behalf of defendants no.7 and 8 vide suffering separate statements on 07.07.2022.

33. In rebuttal, Sh.R.K.Arora Advocate, learned counsel for the plaintiff tendered copy of jamabandi for the year 2017-18(two leaves) as Ex.PZ.

34. I have heard Sh. R.K.Arora Advocate, Ld.counsel for the plaintiff and Sh. Vikas Opal Advocate, counsel for defendants no.1,3 and 5 and Sh.Balbir Singh Talwandi Advocate, counsel for defendants no.7 and 8 and have gone through the entire case file very carefully and thoroughly. My issue wise findings are as under-

ISSUES NO. 1 to 3

35. Issues no. 1 to 3 are being taken up together being

interrelated and interconnected and to avoid repetition in discussion of evidence. Sh. R. K. Arora, Advocate Ld.counsel for the plaintiff while relying upon the statement of plaintiff i.e. PW1 Satwinder Singh and also the statements of PW2 Major Singh marginal witness of agreement to sell dated 23.07.2015, PW4 Bagicha Singh marginal witness of endorsement dated 20.07.2016, PW3 Baldev marginal witness of endorsement dated 31.08.2016, PW5 Narinder Pal Singh Deed Writer and scribe of agreement to sell and both the subsequent endorsements as well as PW9 Arvind Sud handwriting and fingerprint expert as well as documents original agreement to sell dated 23.07.2015 as Ex.P2, endorsement dated 20.07.2016 as Ex.P3, endorsement dated 31.08.2016 as Ex.P4, copy of notice dated 14.12.2016 as Ex.P5, five postal receipts as Ex.P5/A to Ex.P5/E, reply to notice dated 28.12.2016 as Ex.P6, affidavit dated 31.01.2017 as Ex.P7 contented that it has been duly proved by the plaintiff that the agreement to Sale dated 23.07.2015 was executed by Gurdeep Singh in favour of the plaintiff in respect of suit property measuring 7 Kanal 2 Marla as fully detailed in the head note of the plaintiff for total sale consideration of ₹8,87,500/- and an amount of ₹5,00,000/- was paid as earnest money by the plaintiff to Gurdeep Singh in the presence of marginal witnesses at the time of execution of agreement to sell and thereafter further an amount of ₹3,00,000/- was paid on 20.07.2016 and remaining amount of sale consideration was

agreed to be paid at the time of execution and registration of the sale deed on 31.08.2016 but date was further extended to 31.1.2017 and endorsements dated 20.07.2016 and 31.08.2016 were duly executed in presence of marginal witnesses.

36. Ld. Counsel for plaintiff further contented that it is also proved that the plaintiff was always ready to perform his part of the contract and repeated reminders as well as notice dated 14.12.2016 Ex.P5, postal receipts of which are Ex.P5/A to Ex.P5/E, was issued to the defendants no.1 to 5 being LR's of Gurdeep Singh to perform their part of the contract and register the sale deed but despite repeated requests of the plaintiff the defendants no.1 to 5 failed to perform their part of the contract and false and frivolous reply to legal notice Ex.P6 was given by the defendants. The plaintiff even remained present in office of Sub Registrar for execution of sale deed and in this regard affidavit Ex.P7 was executed but the defendants failed to perform their part. As such, he prayed that the plaintiff is entitled to the relief of specific performance of the agreement to Sale dated 23.07.2015. Ld. Counsel for plaintiff further contended that the sale deeds dated 08.08.2016 executed by Gurdeep Singh in favor of defendant no.6 and dated 28.02.2017 executed by defendant no.6 in favor of defendant no.8 during subsistence of the agreement to sell dated 23.07.2015 are illegal, null and void and not binding on rights of the plaintiff and are liable to be set aside as Gurdeep Singh had no right to

sell part of the suit land and defendants no.6 and 8 were having full knowledge of execution of agreement to sell between plaintiff and Gurdeep Singh, being co villagers and relatives. Ld. Counsel further contended that defendant no.6 has failed to contest the suit and defendant no.8 has miserably failed to prove that he was bonafide purchaser as such, Ld. Counsel for plaintiff contended that issues no.1 to 3 be decided in favour of the plaintiff and against the defendants. In this regard, the learned counsel for the plaintiff placed reliance upon the observations relied in **2010(2), Civil Court Cases, 608 (Allahabad) titled as Hodil Singh (Deceased) represented by Legal Heirs Vs. Bhagwant Singh (Deceased) represented by Legal Heirs, SA No.156 of 2010, D/o 03.02.2010, 2015(1) Civil Court Cases, 674, (P&H) titled as Darshan Singh vs. Dalip Kaur & Ors.,RSA No.4707 of 2010 (O&M) D/o 06.10.2014, 2019(4) RCR(Civil) 756, titled as Om Parkash vs. Krishan Chand, RSA No.3794-2013 (O&M) D/o 13.03.2019.**

37. Per contra, Ld.counsel for the defendants no. 1,3 and 5, Sh. Vikas Opal, Advocate refuted all the submissions of Ld.counsel for the plaintiff and contented that the plaintiff has to prove his own case by standing on his own legs. He contented that Gurdeep Singh had never entered into alleged agreement dated 23.07.2015 and the same is a forged and fabricated document. He also argued that the alleged endorsements dated 20.07.2016 as well as 31.08.2016 are also forged and fabricated and

since the original agreement was never executed, the question of executing the endorsements does not arise. He also argued that the terms and conditions of the agreement are harsh and unreasonable as value of property was much more than the sale consideration allegedly agreed upon. Further, while relying upon the statements of DW1 Pritam Kaur and DW2 Balwinder Singh, Ld. Counsel for defendants no. 1, 3 and 5 contended that Gurdeep Singh had never executed any agreement dated 23.07.2015 and the agreement produced by the plaintiff is a complete forgery. The deceased Gurdeep Singh had never received any amount from the plaintiff and had never agreed to execute the sale deed of the property in favour of the plaintiff. It is argued that he was totally illiterate and simpleton person and had no knowledge of execution of any agreements. It is also argued that Gurdeep Singh was not in need of any amount of money at all and the land in question being Joint Hindu Family Coparcenary property, there was no occasion for Gurdeep Singh to enter into any such agreement. The agreement of Sale as well as the notices produced by the plaintiff are forged documents.

38. Ld. Counsel for defendants no.1,3 and 5 further contented that even the execution of the agreement to Sell as well as endorsements is not proved as the plaintiff as well as the alleged marginal witnesses examined by the plaintiff differ with each other on material points in their cross examination and have not successfully proved that the payment of alleged

sale consideration was made to Gurdeep Singh or that any such agreement or endorsements were executed at all. While drawing attention of this court towards the cross examination of PW3 Baldev and PW4 Bagicha Singh Ld.counsel for the defendants contented that the said witnesses have failed to prove the execution of endorsements dated 20.07.2016 and 31.08.2016 as they admitted in their cross examination that he had not gone through the agreement and had also not seen the parties signing in their presence. It is argued that all witnesses of plaintiff have admitted that Gurdeep Singh was an illiterate person. They have also admitted that the suit land was Joint Hindu Family Coparcenary property. As such, he argued that the entire defence of the defendants stands admitted. It is also argued that marginal witnesses are interested witnesses being known to the plaintiff and cannot be relied upon. As such, the execution of the agreement is not proved. Readiness and willingness of the plaintiff is also not proved on the file. So, in these circumstances, the plaintiff is neither entitled to specific performance nor entitled to possession as owner of the suit property. As such, he prayed that issues no.1 to 3 be decided against the plaintiff and in favour of the defendants. In this regard, the learned counsel for the defendants no.1, 3 & 5 placed reliance upon the observations relied in ***2016(3) Civil Court Cases 527 (Hyderabad) titled as K.Bhudamma & Ors. Vs. Vidyadevi & Ors, C.C.C.A No.215 of 2001, D/o 07.01.2016, 2011 (2) Civil Court Cases, 841, (A.P.) titled as Chodi***

Mahalakshmi Vs. Koppada Sathiraju & Ors., Appeal Suit No.2734 of 2004, D/o 04.03.2011, 2015(SUPPL.) CIVIL COURT CASES 187 (A.P.) titled as Kalvakolanu Tarakamma & Ors. Vs. Pulichintala Narsimha Reddy, A.S.No.870 of 1993, D/o 26.09.2014, EFA (OS) 5/2014 and C.M.NO.3319/2014 (Delhi High Court), decided on 31.03.2016 titled as Smt.Veena Mahajan vs. Sh.V.N.Verma and Ors., & AS No.831 of 2010 (Madras High Court) D/o 12.04.2017, titled as Pandian Chemicals Ltd., Vs. Punithavalli.

39. Thereafter, Sh. Balbir Singh, Ld. Counsel for defendants no.7 and 8 contended on the same lines as that of defendants no.1,3 and 5 and also argued that the agreement to sell dated 23.07.2015 is a forged and fabricated document and not binding on defendant no.8 as defendant no.8 is bonafide purchaser for consideration and had no notice of agreement to sell allegedly executed between plaintiff and Gurdeep Singh. As such, he also prayed that issues no. 1 to 3 be decided against the plaintiff and in favor of the defendants.

40. I have given my thoughtful consideration to the rival submissions made by the Ld.counsels for both the parties and I have minutely scrutinized the entire case file as well as the evidence led by both the parties.

41. In the present case, this fact is not disputed that Gurdeep Singh was owner of the property in dispute and that he expired on

05.11.2016. Now, in order to establish that Gurdeep Singh entered into an agreement to Sale with the plaintiff with respect to the property in dispute, the plaintiff himself stepped into the witness box as PW1 Satwinder Singh and by way of his duly sworn affidavit Ex.PW1/A proved the entire averments of the plaint. He specifically deposed regarding execution of agreement dated 23.07.2015 for total sale consideration of ₹8,87,500/- and payment of earnest money of Rs,5,00,000/- to Gurdeep Singh in the presence of marginal witnesses Major Singh and Satnam Singh and identified his signatures over the original agreement and stated that entry was also made in register of deed writer . He also reiterated the terms and conditions of the agreement to sell. He also deposed regarding his readiness and willingness to perform his part of the contract. He also proved the endorsement dated 20.07.2016 vide which date for execution and registration of sale deed was extended from 23.07.2016 to 31.08.2016 and further an amount of ₹3,00,000/- was paid as earnest money in presence of marginal witnesses Sukhdev Singh and Bagicha Singh and stated that entry was also made in register of deed writer. He further proved the endorsement dated 31.08.2016 vide which date for execution of sale deed was further extended to 31.1.2017 and the same was attested by marginal witnesses Balwant Singh and Baldev Singh and entry was made in register of deed writer. He further deposed that Gurdeep Singh died on 05.11.2016 and after his death he approached the legal heirs for

execution of sale deed and even issued a legal notice to them but they failed to execute the sale deed and on 31.01.2017, he remained present in office of Sub Registrar, Kapurthala but defendants failed to turn up. Later he came to know about sale deeds dated 08.08.2016 and 28.02.2017 which are illegal and null and void. He also stated that Gurdeep Singh was working as Sarbarah Numberdar in place of his father Sant Singh and even prior to agreement to sell, he had sold 2 Kanal 16 Marla land to him in the year 2014 vide sale deed dated 15.01.2014 and even sold his other land to other persons namely Surjit Singh son of Shingara Singh in the year 2015.

42. He also proved the documents jamabandi for the year 2012-13 as Ex.P1, original agreement to sell dated 23.07.2015 as Ex.P2, endorsement dated 20.07.2016 as Ex.P3, endorsement dated 31.08.2016 as Ex.P4, copy of notice dated 14.12.2016 as Ex.P5, five postal receipts as Ex.P5/A to Ex.P5/E, reply to notice dated 28.12.2016 as Ex.P6, affidavit dated 31.01.2017 as Ex.P7, attested copy of sale deed dated 08.08.2016 as Ex.P8, photo copy of sale deed dated 15.01.2014 as Ex.P9. PW1 was cross-examined at length and in his cross-examination also, he reiterated the details of the execution of agreement on 23.07.2015. He stated that there were two stamp papers of ₹1000/- each. He admitted that Gurdeep Singh was an agriculturist and he knew about his family members and stated that Gurdeep Singh asked Satnam Singh to be a witness. He further

stated that the earnest money was lying with him at his home. He admitted that no reason for extension of date in endorsement dated 20.07.2016 was mentioned. As such, despite incisive cross-examination, the credibility of PW1 could not be shaken.

43. Thereafter, to further prove the execution of the agreement to sell and endorsements, plaintiff examined PW2 Major Singh, marginal witness of the agreement to sell dated 23.07.2015 Ex.P2, PW3 Baldev marginal witness of endorsement dated 31.08.2016 Ex.P4 and PW4 Bagicha Singh marginal witness of endorsement dated 20.07.2016 Ex.P3 who by way of their affidavits, Ex. PW2/A, Ex.PW3/A and Ex.PW4/A deposed on the lines as already discussed above and proved the execution of the respective agreement/endorsements in their presence and also identified their signatures as well as that of plaintiff and Gurdeep Singh and also proved passing of consideration as well as the fact that the agreement/endorsements were scribed by deed writer and entry was also made in the register of deed writer over which they had signed. The testimonies of these witnesses are further corroborated from the testimony of PW5 Narinderpal Singh, Deed Writer, who by way of his duly sworn affidavit Ex.PW5/A deposed as already discussed above and proved that he had scribed the agreement Ex.P2 and he identified his signature and stamp over the same and also proved entry no.375 made in his register Ex.P2/A. He also stated that he had scribed the endorsement dated

20.07.2016 Ex.P3 and he identified his signature and stamp over the same and also proved entry no.602 made in his register Ex.P3/A. He also stated that he had scribed the endorsement dated 31.08.2016 Ex.P4 and he identified his signature and stamp over the same and also proved entry no.723 dated 31.08.2016 made in his register Ex.P4/A.

44. The plaintiff in order to further prove Ex.P2 and the thumb impression of Gurdeep Singh over the same has also examined document and Handwriting expert Sh.Arvind Sood as PW9 who proved his report Ex.PW9/A and digital photographic chart Ex.PW9/B and stated that after examining the questioned thumb impressions Q1 to Q4 of Gurdeep Singh with his standard thumb impressions marked S1 to S3 he was of the opinion that the questioned thumb impressions and the standard thumb impressions are identical. He was cross examined at length by the counsel of the defendants no.1,3 and 5 assisted by Sh. Sukhjinder Singh, Documents Expert, Patiala but they miserably failed to impeach the cogent and reliable expert report of PW9 Sh.Arvind Sood. As such, from the above stated oral testimonies as well as documents proved by the plaintiff, in my view, the execution and attestation of agreement to sell Ex.P2 as well as endorsements Ex.P3 and Ex.P4 executed by Gurdeep Singh in favor of the plaintiff as well as passing of consideration stands duly proved.

45. Thereafter, to prove his readiness and willingness to execute

the sale deed, the plaintiff in addition to his own testimony as PW1, examined PW6 Jagtar Singh RC Clerk as well as PW11 Kuljit Singh RC Clerk who proved the affidavit Ex.P7 dated 31.01.2017 regarding presence of plaintiff in the office of Sub registrar on 31.01.2017 and proved entry No.78/RC dated 31.01.2017 in the register regarding attestation of the said affidavit Ex.PW11/A.

46. Further, to refute the contentions of the defendants no.1, 3 and 5 to the effect that Gurdeep Singh was an illiterate person and was not having the knowledge regarding execution of sale deeds, the fact that the land in dispute was coparcenary property and Gurdeep Singh was having no need to sell the same, the plaintiff examined PW7 Surat Singh, marginal witness of sale deed dated 15.01.2014 who by way of his duly sworn affidavit proved execution of the same and identified his signatures as well as that of Satwinder Singh plaintiff and thumb impression of Gurdeep Singh over the same and further proved endorsement of register Ex.P10/A and stated that the same was executed by Gurdeep Singh in favor of Satwinder Singh on 15.01.2014 with respect to his land measuring 2 Kanal 16 marla for sale consideration of ₹4,22,000/-. Plaintiff also proved the said sale deed by examining PW8 Kujeet Singh RC Office of Sub registrar Kapurthala who proved the sale deed bearing vasika no. 3691 dated 15.01.2014 executed by Gurdeep Singh in favor of plaintiff and endorsement of its registration Ex.P10/A. The said sale deed

has further been proved by Satish Kumar Deed Writer PW10 who by way of his duly sworn affidavit Ex.PW10/A proved that he had scribed the same and made entry in his register at serial no.29, Ex.PW10/B.

47. Now, it is the contention of Ld. Counsel for the defendants no.1,3 and 5 that the execution of the endorsements is not proved as the marginal witnesses PW3 Baldev Singh of endorsement dated 31.08.2016 and PW4 Bagicha Singh of endorsement dated 20.07.2016 admitted in their cross-examination that they were not present at the time when the parties to the endorsements signed on it, in this regard he has drawn the attention of the court towards the cross-examination of PW3 as well as PW4 where the said admission has come on record. He also contended that payment is also not proved as all the witnesses differ with each other as to how and in what manner the payment was made. No proof regarding making of payment has been placed on record. As far as these contentions are concerned, I am of the view that these discrepancies do not materially affect the case of the plaintiff as a witness is normally not expected to remember each and every detail. Moreover, the marginal witnesses have otherwise supported the case of the plaintiff in entirety. Even other wise, from the evidence of PW9 Sh. Arvind Sood, it stands duly proved that the agreement as well as endorsements bear the thumb impression of Gurdeep Singh. Moreover, the science of thumb impression is a perfect science and unlike signatures, there is no question of forgery of thumb impressions.

As such, it is proved that Gurdeep Singh had thumb marked the agreement and the endorsements. Here, it is pertinent to refer to the observations made in **2010(2)CCC 608 Allahabad H.C.** in case titled ***Hodil Singh (deceased) represented by Legal Heirs Vers Bhagwant Singh(Deceased) represented by Legal Heirs*** wherein it was observed that court is regularly noticing that a vendor after executing the agreement takes dishonest pleas that either he has not executed the agreement or that he has no knowledge of the contents or terms and conditions of the agreement just to frustrate performance of the contract thereby showing extreme dishonesty and cheating to the sanctity of the agreement or contract or sale deeds. *It is not possible that a person executing the agreement is unaware of the contents or terms and conditions of the document on which he put his signature or thumb impression. The Sanctity of agreement must be respected and preserved.* In my view, the said observations are fully applicable to the case in hand and the execution of agreement of sale dated 23.07.2015 Ex.P2 and subsequent endorsements Ex. P3 and Ex.P4 has been proved by the plaintiff by way of direct evidence as well as by way of expert evidence.

48. As far as the evidence of the defendants no.1, 3 and 5 is concerned, defendant no.1 has appeared as DW1 Pritam Kaur and except her bald testimony by way of affidavit Ex.DW1/A and that of DW2 Balwinder Singh by way of affidavit Ex.DW2/A wherein they have

reiterated the contents of the written statement, no other evidence has been led by the defendants no.1, 3 and 5 to prove that the agreement to sell Ex.P2 or endorsements Ex.P3 and Ex.P4 are forged and fabricated. Rather perusal of cross-examination of DW1 Pritam Kaur reveals that she is not a reliable witness and has only made a vague denial of the agreement to sell Ex.P2 and was not actually aware of the true facts. During her cross-examination in the beginning she completely denied the agreement to sell Ex.P2 and even expressed ignorance regarding the sale deed dated 15.01.2014 qua 2 Kanal 16 marlas of land executed by Gurdeep Singh in favour of plaintiff. She also stated that she never accompanied her husband when he used to go out of the house to perform outside work. Further, she was confronted with the photographs of her husband over the endorsement of registration Ex.PW10/A but she cleverly stated that due to weak eye sight she could not recognize the photographs non endorsement Ex.PW10/A nor could tell whether it bears the photograph of her husband or not. She further stated that she could not tell whether Gurdeep Singh during his life time had sold any part of the land owned by him. DW1 also blatantly denied that Gurdeep Singh during his life time had sold part of the land owned by him to defendant no.6. She also blatantly denied that defendant no.8 Gurbax Kaur was in possession of the suit land and stated that the defendant had obtained possession of the suit land from her forcibly after the death of her husband. Thereafter

she further admitted that Gurdeep Singh had no enmity with the marginal witnesses of the agreement Ex.P2. Later on, during her cross-examination, DW1 Pritam Singh admitted that she had come to know about the execution of the agreement in favour of the plaintiff, a day after the death of her husband but she admitted that she did not take any action or file any complaint against the plaintiff with regard to the agreement to sell. Thereafter, later she expressed ignorance regarding the agreement to sell but did not specifically deny the same, thus contradicting the earlier version wherein she completely denied the agreement to sell. In her further cross-examination she even denied having received any legal notice, although the reply filed by her counsel has been duly proved by the plaintiff. All these admissions and contradictions makes the testimony of DW1 highly unreliable. As such, the testimony of this witness cannot be relied upon.

49. The only other witness by the defendants no.1, 3 & 5 is DW2 Balwinder Singh who reiterated the contents of written statement filed by defendants no.1, 3 & 5 vide his duly sworn affidavit Ex.DW2/A. However, in his cross-examination, the said witness partly admitted the case of the plaintiff. He admitted that he had seen the sale deed dated 15.01.2014 Ex.P10, on which, he identified his signatures. The said sale deed was executed by Gurdeep Singh in favour of Satwinder Singh with regard to land measuring 2 Kanal 16 marlas, over which he signed as

witness although the said sale deed had been denied by DW1. Further, both the DW1 and DW2 admitted that Gurdeep Singh had remained Member of Gram Panchayat of village Thikriwal and his father Sant Singh was Numberdar of village Thikriwal. Both DW1 and DW2 also admitted that Gurdeep Singh had remained Sarbarah Numberdar of village Thikriwal. DW2 also admitted that Gurdeep Singh son of Sant Singh had executed a pronote for a sum of ₹1,50,000/- on 21.01.2016 in favour of Satnam Singh, over which, DW2 signed as a witness and the said document was marked as Mark PX. These admissions clearly reveal that although Gurdeep Singh was illiterate and did not know how to sign but he remained member of the Gram Panchayat and also the Sarbarah Numberdar of the village and was also well versed with the execution and attestation of various documents like pronotes, agreements, sale deed etc., as such, he was having knowledge of the attestation of the documents and further was also in need of money as opposed to the plea of the defendant that he was not in need of money and had no necessity to sell his property. As such, the contentions of learned counsel for the defendants no.1, 3 and 5 to the effect that Gurdeep Singh was illiterate and plaintiff took advantage of him, that the land in dispute was the coparcenary property and that Gurdeep Singh was not in need of money, pale into insignificance. During further cross-examination DW2 has stated that he does not know whether the agreement Ex.P2 and endorsements Ex.P3 and

Ex.P4 were executed by Gurdeep Singh in favour of plaintiff and stated that the same were not prepared in his presence. He even admitted that no one has stated to him that Ex.P2, Ex.P3 and Ex.P4 were false but he had seen the aforesaid documents in the Court for the first time. As such, the said witness merely expressed ignorance regarding the agreement to sell and the endorsements and did not state that the same were false and fabricated. No other evidence has been led by the defendants no.1, 3 and 5. As such, in my opinion, the defendants no.1, 3 and 5 have failed to prove that the agreement to sell was forged and fabricated. Further, since the execution of the agreement has been denied by the defendants, as such, the plea taken by the defendants that the suit property was valued much more and the terms and conditions of the same were harsh also cannot be accepted. Reliance in this regard has been placed upon the observations made in **2019 (4) RCR (Civil), 756, (P&H) titled as Om Parkash vs. Krishan Chand, RSA No.3794-2013 (O&M), D/o 13.03.2019** wherein it is held that (i) “*Plead of Fraud – Agreement scribed by Deed Writer – Entry of register also bearing thumb impressions – attested by two marginal witnesses – No question of fraud or forgery, (ii) Plead of Hardship - rejected*”.

50. Thereafter, as far as evidence led by the defendants no.7 and 7 is concerned, both the defendants have also denied the execution of the agreement to sell and subsequent endorsements Ex.P2, Ex.P3 and Ex.P4

and have alleged that the same were forged and fabricated but it has been clearly observed in the case titled as ***Ram Chander Vs. Sher Singh & ors, 1997(2) Civil Court Cases, 156 (P&H) RSA No.2638 of 1979, D/o 18.02.1997*** that “Subsequent Purchaser cannot challenge the validity of agreement on ground of Fraud/mis-representation/without consideration. As such, since the defendants no.7 and 8 have no right to challenge the agreement, accordingly the said contention of the defendants no. 7 & 8 is not acceptable.

51. As such, from the discussion above, it is established that the defendants have merely taken the plea in their written statement that the agreement of sale dated is forged and fabricated but neither any expert has been examined by them nor it has been proved as to whether the thumb impressions of Gurdeep Singh were obtained by fraud or coercion. In these circumstances of mere denial, the sanctity of the agreement of sale is required to be respected and preserved as has been clearly observed in ***2010(2)CCC 608 Allahabad H.C.*** in case titled ***Hodil Singh (deceased) represented by Legal Heirs Vers Bhagwant Singh(Deceased) represented by Legal Heirs*** that it has become a regular tendency that first enter into an agreement or a contract and thereafter resile from the promise. Person making the payment thus feels cheated after getting involved in an unexpected and unsavory situation of unwanted litigation so initiated by a dishonest person. *Thus the primary duty of a court of law*

*is to enforce a promise, which the parties have made and to uphold the sanctity of a contract or an agreement entered into between the parties. Courts must exercise extreme restraint in holding a contract or an agreement to be void as it would encourage dishonesty and cheating. It has also been observed in 2010(2)CCC Bombay 730 in case titled **Shrikeishna Danuji Sonone vs Vitthal** that ordinarily specific performance should be granted. It ought to be denied only when equitable consideration points to its refusal and the circumstances show that damages would constitute an adequate relief. It was also observed in 2009(3)CCC P& H 774 in case titled **Abhay Singh and others vs Ramesh Kumar and others** that normal Rule is to allow the specific performance. It is only in rare circumstances that said relief may be denied. Nothing could be shown that normal rule has to be deviated. Discretion exercised by lower appellate court directing specific performance was held not erroneous.*

52. As far as question of readiness and willingness of the plaintiff to perform his part of the contract is concerned, it is worth mentioning that the defendants have denied the execution of the agreement of sale dated 23.07.2015 and as such, the question of readiness and willingness on part of the plaintiff to perform his part of the contract pales into insignificance and the plaintiff is not required to prove his readiness and willingness and the lone statement of the plaintiff recorded in this regard

is sufficient to prove that he was ready and willing to perform his part of the contract. Reliance in this regard is placed on the observations made in **2011(2) CIVIL COURT CASES 113 (P & H) in Jora Singh & Lakhwinder Kumar & ors** wherein it was observed that when defendant denied the execution of agreement to sell means that the defendant was never willing to perform his part of the contract. It does not lie in the mouth of the defendant to contend that plaintiff was not ready and willing to perform his part of the contract.

53. In view of the discussion above, I am of the considered opinion that plaintiff has successfully established that the predecessor-in-interest of defendants no.1 to 5 being owner in possession of the suit property entered into an agreement to sell dated 23.07.2015 and subsequent endorsements dated 20.07.2016 and 31.08.2016 with the plaintiff in the presence of marginal witnesses and received a sum of ₹8,00,000/- as earnest money and the plaintiff has been ready and willing to perform his part of the contract whereas defendants resiled from the same without any cause. Accordingly, issues no.1 to 3 are decided in favour of the plaintiff and against the defendants.

ISSUES No. 4 and 5

54. Onus to prove these issues was also on the plaintiff. In view of my findings on the issues no.1 to 3, the plaintiff has proved the agreement to sell dated 23.07.2015 executed by Gurdeep Singh in favour

of the plaintiff. Now it is admitted that Gurdeep Singh had died on 05.11.2016 and during his life time he executed sale deed with respect to part of the suit land dated 08.08.2016 in favour of defendant no.6 and further defendant no.6 executed sale deed in favour of defendant no.8 vide sale deed dated 28.02.2017. Plaintiff has prayed for declaration to the effect that both the sale deeds dated 08.08.2016 executed by Gurdeep Singh in favour of defendant no.6 and the sale deed dated 28.02.2017 executed by defendant no.6 in favour of defendant no.8 are null and void and are not binding on the rights of the plaintiff as Gurdeep Singh was having no right to execute the same in view of the agreement to sell Ex.P2 and in this regard plaintiff has led evidence already discussed in detail in the findings of issues no.1 to 3. It is interesting to note that the defendant no.6 never appeared to contest the claim of the plaintiff, despite notice of the suit being duly served upon him and was proceeded against exparte. As such, the averments of the plaintiff qua the defendant no.6 have remained unrebutted and unchallenged. Undoubtedly, plea of bona fide purchaser without notice was to be pleaded and proved by defendant no.6 only but the defendant no.6 failed to appear in the Court to set up any such plea and prove the same by leading any evidence. Moreover, DW1 Pritam Kaur in her cross-examination clearly denied the fact that Gurdeep Singh had executed any sale deed in favour of defendant no.6 and the fact that any amount was received by Gurdeep Singh. She clearly stated that

the possession of the suit land was never delivered to defendant no.6. Even DW2 denied that defendant no.6 has ever been in possession of the suit land. As such, in my opinion, the evidence led by the plaintiff remained unrebutted and unchallenged qua defendant no.6. The fact of execution of the agreement to sell Ex.P2 as well as passing of consideration under the said agreement having been proved and defendant no.6 having failed to establish that he had no notice of the agreement Ex.P2, the sale deed executed by defendant no.6 is liable to be set aside. Consequently, since the sale deed executed in favor of defendant no.6 stands set aside, as such, since no title passed onto defendant no.6 by way of said sale deed, the said sale deed dated 28.02.2017 executed by defendant no.6 in favour of defendant no.8 also has no value in the eyes of law.

55. However, it is worth mentioning that the defendant no.8 has taken up the plea that she was bonafide purchaser without notice and in this regard she examined herself as DW3 and deposed through her duly sworn affidavit Ex.DW3/A and proved the certified copy of sale deed Ex.DW3/1 and endorsement Ex.DW3/2 by examining DW4 also, but perusal of her cross-examination reveals that the defendant no.8 has also miserably failed to prove that she was bonafide purchaser. In this regard, cross-examination of all the witnesses of the defendants is relevant. DW1 Pritam Kaur admitted that the house of defendant no.6 Ajit Singh was

situated about 5-6 houses next to the house of Gurdeep Singh. She also admitted that the house of defendant no.8 Gurbachan Kaur was situated one house next to the house of Gurdeep Singh. Further DW2 Balwinder Singh also admitted that village Thikriwal was very small village having 30/35 houses. He also admitted that the village being small village, all the members of the village get knowledge regarding any registry, agreement or sale deed taking place between the co-villagers. He further admitted that the defendant no.6 Ajit Singh was also resident of village Thikriwal and his house is situated near to the house of Gurdeep Singh. DW2 also admitted that defendant no.6 was never came into possession of the suit land. He also admitted that the house of defendant no.8 was also situated very close to the house of Gurdeep Singh and even the land of Balbir Singh husband of defendant no.8 was situated close to the land of Gurdeep Singh. Thereafter, even defendant no.8 Gurbachan Kaur DW3 admitted that the parties to the present suit were related to each other and plaintiff Satwinder Singh was her nephew whereas Pritam Kaur was her Aunt(Chachi). She also admitted that even the plaintiff and Pritam Kaur were related to each other and the house of Pritam Kaur was situated close to her house. She further admitted that village Thikriwal was having about 50 houses and was not a very big village. She also admitted that if any registry or agreement was executed in the village, all the villagers came to know about the same. She also admitted that at the time of execution of

the sale deed, she had not conducted any inquiry from the Patwari or asked from any other person regarding precedents of the land in question. All these admissions in my opinion, clearly established that no bonafide inquiry was conducted by the defendant no.8 before purchasing part of the suit land from the defendant no.6. Moreover, since the parties are related to each other and are residing in the same village which is a small one, as such, it cannot be believed that they did not have notice with regard to the agreement executed between the plaintiff and Gurdeep Singh. Reliance in this regard is placed on the observations made in **2008 (2) PLR, 414, (P&H) titled as Bhura alias Bhura Ram vs. Sube Singh and others, RSA No.1369 of 1993, 2014 (4) Civil Court Cases, 372 (P&H), titled as Mulakh Raj vs. Kishan Kaur & Ors., RSA No.3069 of 2010 (O&M) in RSA No.4673 of 2009 (O&M), D/d 21.03.2014, 2014 (2) PLJ, 193 (P&H), titled as Mulkh Raj vs. Kishan Kaur & Ors., RSA No.3069 of 2010 (O&M) in RASA No.3069 of 2010, D/o 21.03.2014 and 2003 (3) RCR (Civil) 590 titled as Balwant Singh & others vs. Mage Ram and others, RSA No.4901 of 2002, D/o 06.05.2003 wherein it is observed that “(i) Parties belonging to small village/same locality – closely related to each other – residing in the neighbor – Not possible that subsequent purchaser was not having notice of previous agreement, (ii) Unusual Haste in which sale deed executed shows that parties were having notice of previous agreement”.**

56. In my opinion, the observations made in the aforesaid citations are clearly applicable in the case in hand as the sale deeds executed in favor of defendant no.6 as well as defendant no.8 were apparently executed in haste during the subsistence of Ex.P2, the parties belong to the same locality and are closely related with each other as such, it is not possible that the subsequent purchasers was not having any notice of the previous agreement. Accordingly, the plea of defendant no.8 is not acceptable.

57. In view of the aforesaid detailed discussion, I am of the opinion that the defendants no.6 and 8 failed to prove that they are the bonafide purchasers and accordingly plaintiff is entitled to declaration to the effect that their sale deeds are null and void. However, as far as relief of mandatory injunction is concerned, the land in question has already been redeemed by the defendants no.6 from defendant no. 7. Accordingly, the relief of mandatory injunction claimed has become infructuous. However, as far as relief of permanent injunction is concerned, plaintiff is also held entitled to the said relief as the defendants have no right to alienate the suit property further. Accordingly the issues no.4 and 5 are partly decided in favour of the plaintiff and against the defendants.

ISSUE NO.6.

58. The onus to prove the issue no.6 was upon the defendants. However, the defendants have failed to lead any evidence to that effect.

Moreover, in view of the findings returned on issues no.1 to 5, there is nothing to say that the plaintiff has not come to the court with clean hands and accordingly, issue no.6 is decided against the defendants and in favour of the plaintiff.

ISSUE NO.7.

59. The onus to prove the issue no.7 was upon the defendants. However, in view of the findings returned on issues no.4 to 5, in my view, the defendant no.8 has failed to prove that he is bonafide purchaser, as such, issue no.7 is decided against the defendants and in favour of the plaintiff.

RELIEF

60. In view of my findings on issues no.1 to 7 made above, *suit of the plaintiff Satwinder Singh succeeds, as such, the same is decreed with costs for specific performance of the agreement to sell dated 23.07.2015 executed by deceased Gurdeep Singh-predecessor in interest of defendants No.1 to 5 in favour of plaintiff regarding his 7 Kanal 2 Marla of land comprised in Khewat/Khatauni No.3/3 bearing Khasra No.14//16/1/4-0 and Khewat/Khatauni No.150/183 bearing Khasra No.14//15/2/3-2, measuring in total 7 kanal 2 marlas as per jamabandi for the year 2012-13 situated in village Thikriwal, Tehsil and District Kapurthala alongwith share in water, rasta and all other incidental right and appurtenants attached thereto, for a total sale consideration of*

₹8,87,500/-(at the rate of ₹10 Lakh per acre) out of which ₹5,00,000/- were paid to the said Gurdeep Singh son of Sant Singh as earnest money on 23.07.2015, in presence of scribe and attesting witnesses at the time of execution of agreement to sell dated 23.07.2015 and further an amount of ₹3,00,000/-was paid to said Gurdeep Singh son of Sant Singh vide endorsement dated 20.07.2016; and now balance sale price of ₹87,500/- shall be paid to the defendants No.1 to 5 being legal heirs of deceased Gurdeep Singh at the time of execution/registration of sale deed in favour of the plaintiff as per terms of agreement to sell dated 23.07.2015 and further it is declared that the sale deed dated 08.08.2016 executed by Gurdeep Singh son of Sant Singh in favour of Ajit Singh defendant no.6 is wrong, illegal, null and void, and the same is ineffective and inoperative on the rights of the plaintiff and further declared that the sale deed dated 28.02.2017 executed by defendant no.6 in favour of defendant no.8 is wrong, illegal, null and void, and the same is ineffective and inoperative on the rights of the plaintiff and both the sale deeds dated 08.08.2016 and 28.02.2017 and consequent mutations are set aside. The defendants no. 1 to 5 legal heirs of Gurdeep Singh are directed to execute the sale deed in favour of the plaintiff in accordance with terms and conditions of agreement to sell as above within a period of three months on receipt of balance sale consideration of ₹87,500/- from the plaintiff and further defendants no.6 and 8 are directed to join the defendants no.1

to 5 in execution of the sale deed in favor of the plaintiff. The defendants are also permanently restrained from alienating in manner the suit land to any person except the plaintiff. Decree sheet be prepared accordingly. File be consigned to the record room.

Pronounced in open Court: (Supreet Kaur), PCS
on dated 27.09.2022. Additional Civil Judge (Senior Division)
Kapurthala. UID No.PB00370.

(Directly dictated on Computer)

Indraj Ram,
Stenographer-II