

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 252 of 2023 a/w CMP(M) No.
1080 of 2024

Reserved on: 11.11.2025

Date of decision: 25.11.2025.

Rajinder Kaur & another ...Appellants

Versus

Ravinder Parkash & others ...Respondents

Coram:

The Hon’ble Mr. Justice Satyen Vaidya, Judge.

*Whether approved for reporting?*¹ Yes.

For the appellants: Mr. Atharv Sharma, Advocate.

For the respondents: Mr. S.M. Goel, Sr. Advocate with
Mr. Abhijeet Chauhan, Advocate,
for respondents No. 1 to 6.

Ms. Seema Sharma, DAG, for
respondents No. 8 and 9.

Mr. Nitin Thakur, Advocate, for
respondent No.8 in CMP(M) No.
1080 of 2024.

Satyen Vaidya, Judge:

This Regular Second Appeal under Section 100
of the Code of Civil Procedure (for short, the Code)has been
filed against the judgment and decree dated 27.7.2023,
passed by the learned Additional District Judge, Palampur,
District Kangra, H.P. in Civil Appeal No. 23-

¹ ***Whether reporters of Local Papers may be allowed to see the judgment?***

P/XIII/2023/2019, whereby the judgment and decree dated 28.3.2019, passed by the learned Civil Judge, Palampur in Civil Suit No.(RBT)No. 145 of 2008,has been affirmed.

2. The parties hereinafter shall be referred to by the same status, as they held before the learned trial Court.

3. Suit was filed by the plaintiffs against the defendants for declaration to the effect that sale deeds dated 31.10.2007 and 25.1.2008 executed by defendant No.7, as general attorney of late Smt. Yashoda Devi, in favour of defendants No. 1 to 6 in respect of suit land were illegal and without competence and that the suit land was owned and possessed by the plaintiffs after its conveyance in a compromise executed between late Smt. Yashoda Devi, plaintiff and Mohan Inder Singh on 23.5.2002. Further, the sale deeds dated 31.10.2007 and 25.1.2008 were alleged to have been executed by defendant No.7 on the basis of wrong and incorrect entries existing in the name of late Smt. Yashoda Devi.

4. A decree of permanent prohibitory injunction was also claimed against defendants No. 1 to 6 to restrain them from interfering in the possession of the plaintiffs over the suit land and also from changing the nature by way of construction or otherwise thereof and also from alienating the same by way of sale, gift or creation of encumbrance. In alternative, a decree for possession in respect of suit land was also sought against defendants No. 1 to 6 in case said defendants succeeded in occupying the suit land during the pendency of the suit.

5. It was averred in the plaint that the suit land was owned and possessed by late Smt. Yashoda Devi wife of Bhupender Singh. As per plaintiffs, during her life time, Yashoda Devi had transferred/conveyed the suit land along with other properties in favour of the plaintiffs as a result of family compromise reached between Yashoda Devi, plaintiff and Mohan Inder Singh on 23.5.2002. The plaintiffs claimed to have owned and possessed the suit land since then.

6. It was also averred that the proceedings seeking declaration about the existence of wrong entries in the

name of Yashoda Devi in the records of rights with respect to the suit land were pending before the learned Additional District Judge, Kangra at Dharmshala. As per plaintiffs, after the compromise dated 23.5.2002, the entries in the records of rights in the name of Yashoda Devi qua the suit land were only paper entries. The plaintiffs claimed themselves to be the daughter-in-law and granddaughter respectively of Smt. Yashoda Devi.

7. It was further alleged that defendant No.7 had managed and manipulated the execution of a General Power of Attorney from Yashoda Devi on 14.8.2007 by deception, fraud and misrepresentation. According to the plaintiffs, Yashoda Devi had never attorned in favour of defendant No.7. The General Power of Attorney dated 14.8.2007, executed by Yashoda Devi in favour of defendant No.7 was alleged to be false and fictitious document.

8. The plaintiffs had further made reference to the proceedings held, in Civil Suit No. 123 of 2002 titled as Rajinder Kaur vs. Yashoda Devi, in the Court of learned Civil Judge, Palampur, to urge that in the said

proceedings, a restraint order had been passed but defendant No.7, despite knowledge of said order, had executed sale deeds dated 31.10.2007 and 25.1.2008 in favour of defendants No. 1 and 2 illegally.

9. The plaintiffs had further alleged that the suit land was covered under the Himachal Pradesh Ceiling Act, 1974 and Yashoda Devi had wrongly sought exemption under the Act. The suit land was stated to have tea plantation and hence prohibited from being transferred in favour of defendants No. 1 to 6. It was also alleged that Yashoda Devi had succeeded in managing permission to sell the suit land after misrepresentation of the facts. The permission so granted to Yashoda Devi was also alleged to be illegal. According to the plaintiffs, the possession of land was with them and despite execution of sale deeds, the possession was never delivered to the purchaser.

10. It was stated in the plaint that defendants No. 1 to 6, on the strength of sale deeds executed in their favour, from 20.7.2008 onwards had started interference in the ownership and possession of the plaintiffs. Thus, the cause of action to file the suit was alleged to have arisen in favour

of plaintiffs on such interference shown by the defendants 1 to 6.

11. Defendants No. 1 to 7 filed their joint written statement. The jurisdiction of the Court to try and decide the suit was challenged in view of the pendency of civil appeal of the plaintiffs in respect of the suit land before the learned Additional District Judge-I, Kangra at Dharmshala, in which, the compromise dated 23.5.2002 was stated to be in question. It was alleged that the alleged compromise dated 23.5.2002 had already been declared as fraudulent document by the learned Civil Judge (Sr. Division), Palampur vide judgment and decree dated 20.2.2008, passed in Civil Suit No. 123 of 2002. The appeal pending before the learned Additional District Judge-I, Kangra at Dharmshala was stated to have been filed by the plaintiffs against the aforesaid judgment and decree passed in Civil Suit No. 123 of 2002. The locus standi of the plaintiffs to challenge the sale deeds executed by Yashoda Devi in favour of defendants No. 1 to 6 was also challenged.

12. Defendants No. 1 to 7 made specific reference to issues No.1 and 9 as framed in Civil Suit No. 123 of 2002, which read as under: -

“(1) “Whether the plaintiffs are the exclusive owner in possession of the suit land as alleged?”

(9) “Whether the alleged compromise is a forged document as alleged?”

It was pointed out that both the issues, as noticed above, had been decided against the plaintiffs in Civil Suit No. 123 of 2002. The plaintiffs were accused of having suppressed material fact of decree having been passed against them in Civil Suit No. 123 of 2002. As per defendants No. 1 to 7, the General Power of Attorney dated 14.7.2008 executed by Yashoda Devi in favour of defendant No.7 was genuine document. The factum with respect to Yashoda Devi having sought permissions from the State Government for selling of suit property was also stated to be having sanction of law.

13. Defendants No. 8 and 9 also filed their separate written statement and defended their action in granting permissions to Yashoda Devi for selling of suit land.

14. In replication filed by the plaintiffs, their stand, as taken in the plaint was reiterated.

15. The learned trial Court had framed the following issues:-

- “1. Whether G.P.A. dated 14.08.2007 is false and fictitious document? OPP
2. Whether G.P.A. dated 14.08.2007 is a result of fraud and mis-representation, as alleged? OPP.
3. Whether the plaintiff is entitled for decree of declaration? OPP
4. Whether suit of the plaintiffs is not maintainable? OPD
5. Whether plaintiffs have no locus standi to challenge the Sale Deed? OPD
6. Whether plaintiffs have not come to the court with clean hands, if so its effect? OPD 1 to 7
7. Whether this court has no jurisdiction to try the suit? OPD
8. Relief.”

Issues No. 1 to 3 and 7 were answered in negative, whereas issues No. 4 to 6 were answered in affirmative. The suit of the plaintiffs was dismissed.

16. The first appeal filed by the plaintiffs against the judgment and decree passed by the learned trial Court has also been dismissed by the learned Additional District

Judge, Palampur *vide* impugned judgment and decree, hence this appeal.

17. The instant appeal was admitted for hearing by this Court on 7.12.2023 on the following substantial questions of law: -

- “1. *Whether impugned judgment & decree passed by learned First Appellate Court below stands vitiated on account of findings qua application under Order 41 Rule 27 CPC filed by the appellants/plaintiffs?*
2. *Whether impugned judgments & decrees, in law, stand vitiated owing to misreading and mis-appreciation of oral and documentary evidence, more especially statements of PW1 to PW6 and DW1 to DW3 and documents, Ext. PW3/A to Ext. PW 6/A and Ext. DW1/A to Ext. PR5?*
3. *Whether learned Courts below misread and mis appreciated the provisions of Sections 32, 32A and 33 of the Registration Act, 1908, thereby vitiating the impugned judgments & decrees?*
4. *Whether in view of family compromise dated 23.05.2002 suit land being in possession of the plaintiffs, alleged alienation of the same without possession and consideration and findings vide impugned judgments & decrees de hors the settled law on the point, in law, vitiated the same?”*

18. I have heard learned counsel for the parties and have also gone through the record carefully.

19. At the outset, it will be relevant to make mention of an application being CMP(M) No. 1080 of 2024, filed by the plaintiffs during the pendency of this RSA No. 252 of 2023. The application has been filed under Order 39 Rule 2A of the Code read with Sections 11 and 12 of the Contempt of Courts Act and Article 215 of the Constitution of India with a prayer to punish the respondents/ contemnors for willfully disobeying the directions passed by this Court in CMP No. 16809 of 2023 in RSA No. 252 of 2023.

20. It was alleged in the aforesaid application that *vide* order dated 7.12.2023, passed in CMP No. 16809 of 2023 in RSA No. 252 of 2023 this Court had directed the parties to maintain *status quo* qua the nature and possession of the suit land during the pendency of the appeal, subject to alteration, modification or vacation on motion. The plaintiffs alleged that after the passing of the aforesaid order, the suit land had been sold by defendants

No. 1 to 6 in favour of '*Dera Radha Swami Satsang Bias*' by execution of registered sale deed.

21. Coming back to the subject matter of RSA No. 252 of 2023, perusal of the judgment passed by the learned trial Court reveals that the plaintiffs had been found to have failed to prove their allegations qua GPA Ext. PW6/A being the result of fraud and misrepresentation. The evidence led by the plaintiffs to prove issue No.1 has been found to be deficient. The learned trial Court has also observed that Yashoda Devi had not raised any grievance with respect to the execution of the GPA or the sale deeds in favour of defendants No. 1 to 6 during her life time. The plaintiffs were held to be the stranger to the suit land. The learned trial Court also took note of the fact that the suit filed by the plaintiffs seeking declaration as to their ownership and possession over the suit land on the basis of compromise dated 23.5.2002 had already been dismissed by the learned Civil Court.

22. Since the GPA Ext. PW6/A executed by Yashodha Devi in favour of defendant No.7 and the sale deeds Ext. PW3/A and PW3/B were registered document

carrying presumption of correctness with the, learned trial Court had discredited the version of the plaintiffs.

23. In first appeal, the learned First Appellate Court has affirmed the findings of facts recorded by the learned trial Court. In addition, the learned First Appellate Court has made reference to Sections 32 and 33 of Registration Act, which deal with the person who can present documents for registration and the recognition of power of attorney for such purpose. In this backdrop, the learned First Appellate Court held defendant No.7 to be competent to present sale deeds for registration on behalf of Yashodha Devi, who was alive at the relevant time.

24. The learned First Appellate Court found that the plaintiffs had failed to rebut the presumption attached to registered documents.

25. Further, the judgment passed by the learned Civil Judge, Palampur on 20.2.2008 in Civil Suit No. 123 of 2002, titled as Rajinder Kaur vs. Yashodha Devi Ext. DA-1, has been considered whereby the compromise dated 23.5.2002 on the basis of which, the plaintiffs were

claiming title to the suit land, had been declared as a forged document.

26. The learned First Appellate Court has also taken into consideration the fact that the plaintiffs had not complied with the provisions of Order 6 Rule 4 of the Code. The pleadings in the plaint were found deficient.

27. Indisputably, the decree passed by the learned Civil Judge, Palampur in Civil Suit No. 123 of 2002 has attained finality. The said decree was affirmed by the learned Additional District Judge-III, Kangra at Dharmshala *vide* judgment and decree dated 30.9.2019, passed in Civil Appeal No. 15-P/XIII/08, titled as *Rajinder Kaur & another vs. Yashodha Devi & others*. The RSA No. 114 of 2020 filed against the aforesaid judgment and decree has also been dismissed by the Coordinate Bench of this Court *vide* judgment and decree dated 6.5.2024 and the said judgment and decree has found further affirmation from the Hon'ble Supreme Court as the SLP filed by the plaintiffs before the Hon'ble Supreme Court has also been dismissed *vide* order dated 22.10.2024, passed in SLP(C) No. 18346 of 2024.

28. Thus, the claim of the plaintiffs that they had acquired title and possession over the suit land in terms of compromise dated 23.5.2002 had no basis and hence the claim of the plaintiffs to title and possession of the suit property was not sustainable.

29. Further, since the plaintiffs had no title or possession over the suit land, their *locus standi* to challenge the execution of GPA by Yashodha Devi in favour of defendant No.7 and further execution of sale deeds in favour of defendants No. 1 to 6 is questionable. Learned counsel for the plaintiffs would contend that even if the title and possession of the plaintiffs was not proved on the basis of compromise dated 23.5.2002, they being the natural heirs of Yashodha Devi had *locus standi* to challenge the execution of GPA in favour of defendant No.7 and other consequential transactions. The argument so raised cannot be accepted for the reason that the plaint did not contain any averment or plea in this regard. Plaintiffs, thus, cannot build a new case in the second appeal.

30. Both the Courts have concurrently held that the plaintiffs could not prove the allegation of fraud or

misrepresentation in execution of GPA Ext. PW6/A. For arriving of such a conclusion both the Courts have made detailed reference to oral as well as documentary evidence on record. It has been found that plaintiff No.2 had examined herself as her own witness (PW-3) and had also examined an official from the office of Sub Registrar Patiala as PW-6 to prove the allegations leveled in the plaint vis-à-vis the execution of the GPA. PW-6 had clearly deposed that the document had been registered by the Sub Registrar, Patiala by visiting the house of the executant Yashodha Devi on 14.8.2007. She had also made it clear that an application had been submitted in this behalf, to the Sub Registrar, making prayer to visit the house of Yashodha Devi for execution of GPA. Though, PW6 had pointed out a discrepancy in the record available with her and the copy of general attorney shown to her vis-à-vis the date mentioned thereon, but both the Courts have considered such discrepancy to be not of such nature that could vitiate the entire transaction.

31. Having perused the record, I do not find any illegality or perversity in the findings recorded by both the

Courts. In the above backdrop, except for the bald assertions made by plaintiff No.2 as PW-3, there is no other evidence to prove any fact sufficient to infer exercise of fraud or misrepresentation in the execution of GPA PW6/A.

32. Even the pleadings to this effect were quite scanty. The learned First Appellate Court has rightly held said pleadings to be deficient in terms of Order 6 Rule 4 of the Code. No details as to the mode and manner, in which the alleged fraud and misrepresentation had been exercised, were provided. As noticed above, the evidence to prove such fact was also grossly insufficient.

33. Additionally, no fault can again be found with the findings recorded by both the Courts to the effect that the plaintiffs had not assailed the transactions of GPA or sale deeds executed in favour of defendants No. 1 to 6 during the life time of Yashoda Devi. Indisputably, the plaintiffs had filed Civil Suit No. 123 of 2002 against Yashodha Devi alleging their right over the suit land on the basis of compromise dated 23.5.2002. As noticed above, the issue had been decided against the plaintiffs and the

alleged compromise dated 23.5.2002 was held to be a fraudulent transaction. The said suit was decided on 20.2.2008. The GPA PW6/A and sale deeds Ext. PW3/A and Ext. PW3/B had been executed and registered before 20.2.2008. It has never been the case of the plaintiffs that they were not aware about the aforesaid transactions. In the plaint, there is no such averments. On the other hand, what has been pleaded in the plaint is that defendants No. 1 to 6 had started interference in ownership and possession of the plaintiffs on 20.7.2008 and thus, the cause of action had accrued to file the suit in their favour. The entire edifice of the case sought to be built by the plaintiffs falls to the ground by their own conduct. Had the plaintiffs been aggrieved against the execution of GPA by Yashodha Devi in favour of defendant No.7 or execution of sale deeds in favour of defendants No. 1 to 6, they immediately would have brought the fact to the notice of the Court as Civil Suit No. 123 of 2002 was still pending.

34. As regards rejection of prayer of plaintiffs for leading additional evidence before learned first appellate court, again the view formed by the said court needs no

interference for the reason that it is supported with valid reasons. It has been held that some of the documents sought to be proved by way of additional evidence were in existence before the leading of evidence by plaintiffs in trial court and the plaintiffs had not been able to show as to why they could not lead evidence to prove such documents. As regards others, learned first appellate court have not found any of them to be having relevance to the issue and thus, necessary for pronouncement of judgment. Learned Counsel for plaintiffs has not been able to show that the findings recorded by learned first appellate court while rejecting application under order 41 rule 27 were factually incorrect. He has also not been able to demonstrate the relevance of documents which were sought to be proved by way of additional evidence.

35. The substantial questions of law, as noticed above, are accordingly decided against the plaintiffs.

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36. As noticed above, the plaintiffs have alleged violation of order dated 7.12.2023, passed by this court in

CMP No. 16809 of 2023 in RSA No. 252 of 2023 by the respondents impleaded in the said application.

37. The above noted order dated 7.12.2023 read as under:

“Heard

The parties are directed to maintain status quo qua nature and possession of the suit land during the pendency of the present appeal, subject to alteration, modification or vacation on motion.

Application stands disposed of.”

38. It has been alleged that the defendants 1 to 6 firstly executed a General Power of Attorney in favour of Galora Ram (R-7 in CMP No. 16809 of 2023) on 19.3.2024 and later sold the suit land to “Dera Radha Swami Satsang Bias” (R-8 in CMP No. 16809 of 2023) *vide* sale deed dated 15.5.2024 through the said GPA.

39. In reply to the allegations made in CMP No. 16809 of 2023, defendants/respondents 1 to 6 have stated that the possession of suit land was with “Dera Radha Swami Satsang Bias” (R-8) since 20.8.2014 when the said land had been agreed to be sold to “Dera Radha Swami Satsang Bias” through an agreement to sell executed in

that behalf. A copy of agreement has also been placed on record. Contents of the agreement reveal that “Dera Radha Swami Satsang Bias” had been shown to have been put in possession of the suit land in terms thereof.

40. The perusal of contents of application CMP 16809 of 2023 filed by the applicants/plaintiffs under order 39 rules 1 and 2 reveals that interim injunction was claimed against defendants/respondents to the extent that they should be restrained from interfering in the possession of applicants/ plaintiffs on the suit land. The applicants/plaintiffs had claimed their possession on the suit land on the basis of family compromise dated 23.05.2002.

41. Thus, the order dated 7.12.2023 passed in CMP 16809 of 2023 has to be read in the specific context. The parties were directed to maintain status quo qua the nature and possession of suit land during pendency of the appeal. Meaning thereby that the parties were to maintain nature and possession of suit land in same position as it was on the date of passing of order dated 7.12.2023.

42. It has now finally been held in terms of judgment and decree passed in Civil Suit No. 123 of 2002 that the alleged compromise dated 23.05.2002 was not a genuine transaction and the issue "*whether plaintiffs (Rajinder Kaur and Kumari Nalini) were owners in possession of the suit land*" has finally been decided against the said plaintiffs. The judgment and decree in CS 123 of 2002 stands affirmed even by the highest court of the country.

43. In the facts as discussed above, when the plaintiffs were clearly proved to be out of possession of the suit land, they cannot possibly have any grievance with regard to violation of order dated 7.12.2023 passed in CMP 16809 of 2023.

44. Moreover, it has been shown that respondents/defendants 1 to 6 had executed an agreement to sell the suit land with "Dera Radha Swami Satsang Bias" way back in 2014 and since then the possession was with the intending purchaser. There is nothing on record to suggest otherwise. Hence, the execution of sale deed in favour of "Dera Radha Swami Satsang Bias" in respect of suit land,

after passing of order dated 7.12.2023 in CMP 16809 of 2023, cannot be construed as act of intentional violation of the said order more particularly considering the context, in which the said order had been passed.

45. In result, I do not find any material to interfere with the concurrently passed judgments and decree by both the Courts. Accordingly, the appeal is dismissed. The judgment and decree dated 27.7.2023, passed by the learned Additional District Judge, Palampur, District Kangra, H.P. in Civil Appeal No. 23-P/XIII/2023/2019, and the judgment and decree dated 28.3.2019, passed by the learned Civil Judge, Palampur in Civil Suit No.(RBT)No. 145 of 2008, are further affirmed.

46. CMP(M) No. 1080/2024 is also dismissed.

47. No orders as to costs.

48. Decree sheet be prepared accordingly.

49. Records be sent back forthwith.

25th November, 2025.
(kck)

(Satyen Vaidya)
Judge