

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****RSA No.258/2025****Date of Decision: 25th November, 2025.**

Parveen Nag

.....Appellant

Versus

Gargi (Deceased) through LRs and Ors.

.....Respondents

*Coram****The Hon'ble Mr. Justice Bipin Chander Negi, Judge.******Whether approved for reporting?¹***

For the Appellant:

Mr. Ashwani Sharma, Sr. Advocate with
Mr. Ishan Sharma, Advocate.

For the Respondents: Nemo.

Bipin Chander Negi, Judge (oral).

The appellant, by filing this appeal under section 100 of the Code of Civil Procedure (for short, CPC), has assailed the judgment and decree dated 19.08.2025, passed by the learned District Judge, Kangra at Dharamshala, District Kangra, HP in Civil Appeal No.13-D/XIII/2025/2022, affirming the judgment and decree dated 24.08.2022, passed by the learned Civil Judge, Court No.1, Dharamshala, District Kangra, HP, in Civil Suit No.44/13/2012.

2. For the sake of convenience, hereinafter in this judgment, the parties shall be referred in the same manner in which they were referred before learned trial Court. The brief facts, as emerge from the record, are that the plaintiff filed a suit for declaration and possession along with consequential relief of permanent prohibitory injunction against the defendants, alleging ownership and possession of the suit land



measuring 0-06-42 hectares out of Khasra No.695/4, situated at Mohal and Mauza Ghuggar, Tehsil Palampur, District Kangra, H.P., based on a registered sale deed dated 14.10.2011 executed by defendant No.3. The plaintiff claimed that defendant No.3 was the owner and had sold the land, with possession delivered and a rapat entered for mutation. The mutation, however, was rejected by defendant No.2, the Naib Tehsildar, who allegedly acted without jurisdiction by impounding the sale deed and referring it to the Collector under Section 47-A of the Stamp Act, 1899, on grounds of undervaluation. The plaintiff contended the sale deed reflected the market value.

3. The defendants contested the suit separately. Defendants No.1 and 2 raised preliminary objections regarding maintainability, estoppel, cause of action, jurisdiction, and notice under Section 80 CPC. On merits, while admitting the sale deed's execution, they asserted that a prior agreement existed for a total sale consideration of ₹50,15,625/-, payable in installments, and that the sale deed was undervalued to ₹6,55,000/- to evade stamp duty. They defended the actions of defendant No.2 in impounding the deed and referring it as lawful under the Stamp Act. Defendant No.3, in his written statement, echoed these averments, denying receipt of full consideration and delivery of possession, symbolic or otherwise, and claimed the sale deed was consequently incomplete.



4. On the pleadings of the parties, the following issues were framed by the learned trial court on 13.05.2014:-

- 1. Whether plaintiff is entitled to declaration that he is the owner in possession of the suit land on the basis of registered sale deed dated 14 October, 2011, as alleged? OPP.**
- 2. Whether plaintiff is entitled to relief of permanent injunction restraining the defendants from interfering in the peaceful ownership and possession of plaintiff, as prayed for? OPP.**
- 3. Whether plaintiff is entitled to possession of the suit land, as alleged? OPP.**
- 4. Whether plaintiff has no cause of action and locus standi against defendants, as alleged? OPD.**
- 5. Whether plaintiff is estopped by his act and conduct to file the present suit, as alleged? OPD.**
- 6. Whether suit is barred by the provision of H.P. Land Revenue Act and this court has no jurisdiction to entertain the same, as alleged? OPD.**
- 7. Whether this court has no territorial jurisdiction as the land in dispute is situated in Palampur, as alleged? OPD.**
- 8. Whether defendant has not been served with legal notice as required under Section 80 CPC? OPD.**
- 9. Relief.**

5. After evidence, the Trial Court decided issue No.1 in favour of the plaintiff, issues No.2 and 3 against the plaintiff, and issues No.4 to 8 against the defendants, thereby partly decreeing the suit. The appellant/defendant No.3, aggrieved by this judgment and decree, preferred the first appeal. In the first appeal, the appellant contended that the Trial Court erred in deciding issue No.1 in the plaintiff's favour, arguing that the sale was incomplete as full consideration was not paid and possession was not delivered, thus no title passed. It was submitted that the civil court at Dharamshala lacked jurisdiction as the land was situated in Tehsil Palampur and the matter was pending before the revenue authorities under Section 47-A of the Stamp Act. The appellant emphasized the existence of



agreement Ext.DW2/B, which stipulated a higher consideration, and asserted that the plaintiff's admission of only symbolic possession indicated a dispute rendering the sale imperfect. It was argued that the plaintiff's prayer for possession itself negated the claim of delivered possession, and that the defendant No.3 was entitled to recover the balance sale consideration. The appellant prayed for the suit's dismissal.

6. The first appellate court, however, dismissed the appeal. It is against this dismissal of the first appeal that the present second appeal has been filed.

7. Heard Counsels for the appellants, perused the impugned judgements.

8. The plaintiff's foundational claim rests on the registered sale deed dated 14.10.2011 (Exhibit PW2/A). The testimony of the plaintiff as PW1, the registration clerk as PW3, and the scribe as PW4 consistently establishes the due execution and registration of this document before the Sub-Registrar. Crucially, the defendant No.3, appearing as DW2, has unequivocally admitted in his cross-examination that he executed the sale deed, that his signatures are present on the document and the registration endorsement, and that he received a sum of ₹6,55,000/- at the time of registration. This admission is fatal to his defence. A registered sale deed, unless proven to be void or voidable in accordance with law, is a document of paramount importance that confers a valid title



upon the transferee. The defendant No.3 has not taken any steps to challenge this sale deed before a competent court on grounds such as fraud, coercion, or undue influence. Consequently, the plaintiff's ownership derived from Exhibit PW2/A stands established.

9. The defence principally relied upon by defendant No.3 is an alleged agreement (Exhibit DW2/B) stipulating a total consideration of ₹50,15,625/-. It is claimed that the sale deed was undervalued to avoid stamp duty and that the full consideration was never paid. However, the legal position is clear that an antecedent agreement does not supersede or nullify a subsequent completed conveyance by a registered deed. The rights of the parties are governed by the registered sale deed. The contention regarding undervaluation pertains exclusively to the domain of stamp duty, which is adjudicated under the specific provisions of the Indian Stamp Act.

10. The fact that the defendant No.2, the Naib Tehsildar, impounded the document and referred it to the Collector under Section 47-A of the Stamp Act is a proceeding in rem for the recovery of deficient revenue. It is a separate statutory mechanism that does not, in any manner, invalidate the transfer of title effected by the registered instrument. The civil court, in a suit for declaration of title, is not an appellate forum over such revenue proceedings. Therefore, the defence based on the agreement and alleged non-payment of the full agreed



consideration is unsustainable in law and cannot defeat the plaintiff's claim of ownership based on the registered sale deed.

11. Regarding possession, the sale deed Exhibit PW2/A contains a clear recital that possession of the suit land was delivered to the plaintiff. The defendant No.3, having admitted the execution and contents of the deed without disputing this specific recital at the relevant time, is estopped from subsequently denying the delivery of possession. The plaintiff's testimony that symbolic possession was delivered is consistent with the documentary evidence. In law, symbolic delivery is sufficient to complete a sale, especially when the executant does not contest the recital in the deed. The defendant's belated denial in the written statement is an afterthought and does not inspire confidence. Hence, the finding that the plaintiff is in possession as the owner is affirmed.

12. Turning to the reliefs sought, while the plaintiff is entitled to a declaration of title, the claim for permanent prohibitory injunction must fail, as has been rightly denied by the Id. Trial Court. The law is well-settled that injunction is a preventive relief granted against a threatened injury. The plaintiff has led no evidence to demonstrate any specific, overt act by the defendants, post the sale, that constitutes a direct threat to her possession or a cloud over her title. Mere apprehension or a generic allegation is insufficient. The burden



to prove the necessity for an injunction was on the plaintiff, and this burden has not been discharged.

13. For the same reasons, the prayer for a decree of possession is misconceived and is refused. A decree for possession is a relief granted to a rightful owner who has been dispossessed. The plaintiff's own case, supported by the evidence, is that she was put in possession pursuant to the sale deed. Having held that she is already in possession, there is no question of granting a relief of possession. Such a decree would be contradictory and superfluous.

14. Furthermore, the objection pertaining to territorial jurisdiction is devoid of merit. Section 20 of the Code of Civil Procedure provides that a suit may be instituted in a court within whose local limits a defendant actually and voluntarily resides. In the instant case, it is established that one of the defendants resides within the territorial jurisdiction of the learned Trial Court at Dharamshala.

15. In conclusion, while the plaintiff has successfully established her ownership over the suit land on the strength of the duly admitted and registered sale deed dated 14.10.2011, her claims for consequential reliefs of permanent injunction and possession are not made out. The appeal, therefore, fails on its substantive challenge to the declaration of title. The judgment and decree of the first appellate court, which upheld the



findings of the learned Trial Court, do not warrant any interference.

16. In the aforesaid facts and attending circumstances, there arises no question of law, much-less a substantial question of law for consideration of the Court, therefore, the appeal is dismissed being devoid of any merit. Pending miscellaneous applications, if any, also stand disposed of.

(Bipin Chander Negi)
Judge

25th November, 2025
(Gaurav Rawat/TB)