**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(216)

**RSA-979-2000 (O&M)
Reserved on:- 07.05.2026
Pronounced on: 14.05.2026
Uploaded on: 15.05.2026**

SARDARI LAL **....Appellants**

Vs

BUTA RAM (SINCE DECEASED) THROUGH HIS LRS **...Respondent**

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. K.S. Sidhu, Senior Advocate with
Mr. Pragbir Singh Dhindsa, Advocate and
Mr. Kartik Bansal, Advocate
for the appellant.

Mr. Vishal Munjal, Advocate and
Ms. Bindu Bala, Advocates
for LRs of the respondent.

VIRINDER AGGARWAL, J. ***(Oral)***

1. The present Regular Second Appeal has been preferred by the appellant/defendant-Sardari Lal challenging the concurrent judgments and decrees passed by both the Courts below. The learned Additional Civil Judge (Senior Division), Pathankot, vide judgment and decree dated 21.01.1998, decreed the suit filed by the respondent/plaintiff. Aggrieved against the said judgment and decree, the appellant/defendant preferred an appeal before the learned District Judge, Gurdaspur. However, the learned District Judge, Gurdaspur, vide judgment and decree dated 07.12.1999, dismissed the said appeal and affirmed the findings as well as the decree passed by the learned Trial Court. Feeling dissatisfied with the concurrent findings recorded by both

the Courts below, the appellant/defendant has filed the present Regular Second Appeal.

2. Briefly stated, the respondent/plaintiff instituted a suit for possession by way of specific performance of agreement to sell on the averments that the defendant, being owner in possession of the suit land, entered into an agreement to sell dated 21.01.1994 in favour of the respondent/plaintiff for a total sale consideration of Rs.85,000/-. At the time of execution of the agreement, the defendant allegedly received a sum of Rs.30,000/- as earnest money from the plaintiff, and the sale deed was agreed to be executed and registered on or before 30.03.1994. It was further pleaded that despite readiness and willingness on the part of the plaintiff to perform his part of the contract, the defendant failed to execute the sale deed on the stipulated date. According to the plaintiff, he remained present in the office of the Sub Registrar on the date fixed for execution and registration of the sale deed along with the balance sale consideration and necessary expenses, but the defendant failed to appear and honour the agreement. Alleging breach of contract on the part of the defendant, the plaintiff filed the present suit seeking possession by way of specific performance of the agreement to sell. The suit was contested by the defendant by filing written statement. The defendant denied execution of the alleged agreement to sell dated 21.01.1994 and also denied receipt of Rs.30,000/- as earnest money. It was specifically pleaded that the agreement in question had been procured by practicing fraud upon the defendant after allegedly administering some intoxicating substance/drugs to him. The defendant further pleaded that he had, in fact, visited the office of the Sub Registrar on 21.01.1994 only for the purpose of attesting/witnessing some

other document executed between the plaintiff and one Chuni Lal, and that he had signed the said document in that context alone. It was also averred that on 18/19.03.1994, the defendant came to know that the suit land mentioned in the agreement did not belong to him, as the plaintiff had allegedly tampered with the agreement and altered the figure "7" into "9" in the description of the suit land. On the basis of the aforesaid allegations, it was contended that the agreement was forged, manipulated and unenforceable in law, and therefore the suit was liable to be dismissed. The plaintiff filed replication controverting the averments made in the written statement and reiterating the stand taken in the plaint. On the basis of the pleadings of the parties, the learned Trial Court framed the following issues for adjudication and the parties led their respective evidence.

> *1. Whether the defendant executed an agreement dated 21.1.94 to sell the suit land to the plaintiff? OPP*
> *2. Whether the plaintiff has always remained and even still ready and willing to perform his part of the contract? OPP*
> *3. Whether the plaintiff is entitled to possession of suit land by way of specific performance of contract agreement dated 21.1.94? OPP*
> *4. Whether the plaintiff is entitled to permanent injunction prayed for? OPP*
> *5. If issue No.1 is proved, whether the agreement dated 21.1.94 is without consideration: OPD*
> *6. Relief*

3. The learned Additional Civil Judge (Senior Division), Pathankot, after appreciating the pleadings and evidence led by the parties, decreed the suit filed by the respondent/plaintiff vide judgment and decree dated 21.01.1998. Aggrieved against the said judgment and decree, the appellant/defendant preferred an appeal before the learned District Judge,

Gurdaspur. However, the learned First Appellate Court, vide judgment and decree dated 07.12.1999, dismissed the appeal and affirmed the findings as well as the decree passed by the learned Trial Court. Feeling dissatisfied with the concurrent judgments and decrees passed by both the Courts below, the appellant/defendant has filed the present Regular Second Appeal. Notice of motion was issued in the appeal on 01.05.2001. Thereafter, vide order dated 15.09.2005, the appeal was admitted for regular hearing upon framing the following substantial question of law: “Whether the loan transaction between the parties gave an undue advantage to the plaintiff over the defendant-appellant?”

4. Respondent appeared through Mr. Kanwaljit Singh, Advocate. Record has been requisitioned. I have heard the arguments and gone through the file carefully.

5. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC, Reference in this regard can be made to the judgment of the Supreme Court in the case of Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157, followed by the judgments in the case of Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

6. Learned counsel for the appellant has contended that both the Courts below have recorded findings based on surmises and conjectures and

have failed to properly appreciate the pleadings and evidence available on record. It is submitted that it stands admitted from the evidence itself that the agreement to sell in question had been materially altered unilaterally by the respondent/plaintiff. In such circumstances, the document could not legally have been acted upon; however, both the Courts below failed to take note of this material aspect of the matter. It is further contended that the alteration made in the agreement to sell by the respondent/plaintiff pertained to a material particular of the agreement and, therefore, the very sanctity and enforceability of the document stood vitiated. Learned counsel submits that the agreement was without lawful consideration, which fact, according to him, stands admitted by the respondent/plaintiff himself during the course of evidence. It is also argued that the agreement in question conferred an undue advantage upon the respondent/plaintiff while causing undue hardship and prejudice to the appellant/defendant. According to the appellant, his signatures were obtained on the alleged agreement to sell by practicing fraud upon him. It is submitted that Khasra No. 7R/18, as mentioned in the agreement, was never owned by the appellant, yet the agreement was deliberately scribed mentioning the said khasra number so as to create false rights in favour of the respondent/plaintiff.

7. On the strength of the aforesaid submissions, learned counsel contends that the agreement to sell cannot be said to have been voluntarily executed by the appellant/defendant and that the same is a result of fraud, manipulation and fabrication. Whereas counsel for the respondent/plaintiff contended that there is no illegality or perversity in the findings recorded by the Courts below. Concurrent findings has been recorded on correct

appreciation of pleadings and evidence. It is further contended that respondent has duly proved execution of agreement to sell by leading cogent evidence which was rightly accepted by the Courts below.

8. Reliance has been placed upon the cross-examination of respondent/plaintiff-Buta Ram, who appeared as PW-6, to contend that the respondent/plaintiff himself admitted having altered the agreement to sell in material particulars unilaterally and thereafter instituted the suit on the basis of the altered document Ex. P-1. The relevant portion of the cross-examination of PW-6 reads as under:

> *" It is correct that in the agreement Ex. P1 by mistake Khasra Number was wrongly mentioned as 7R/18 instead of 9//18. Volunteered that mistake was committed by Sardari Lal. Before filing of the suit was advised by my counsel to set the aforesaid khasra number corrected in the agreement and I got the same corrected from petition writer who had drafted Ex. P1. Petition writer made correction by converting figure 7 to 9 and also made the correction in his register."*

9. The aforesaid portion of the cross-examination of respondent/plaintiff-Buta Ram clearly reveals that upon noticing that agreement Ex. P-1 pertained to land not owned by the appellant/defendant, the respondent/plaintiff himself proceeded to alter the khasra numbers not only in the agreement to sell but also in the register maintained by the scribe. Such alteration undoubtedly pertains to a material particular of the agreement and materially affects the subject matter of the contract. The said alteration was admittedly carried out unilaterally by the respondent/plaintiff and was not the result of any mutual act, consent or agreement between the parties. Once the respondent/plaintiff detected any alleged mistake in agreement Ex. P-1, it was incumbent upon him to approach the appellant/defendant and seek

rectification of the alleged error in accordance with law. Any correction or modification in the terms or description contained in the agreement could only have been effected with the mutual consent of both the parties, as contemplated under Section 62 of the Indian Contract Act, 1872. In the absence of any evidence showing consent or concurrence of the appellant/defendant to such alteration, the unilateral change effected by the respondent/plaintiff in a material term of the agreement seriously affects the authenticity, sanctity and enforceability of the document in question.

10. In the present case, the respondent/plaintiff is stated to have committed forgery by unilaterally altering the description of the property alleged to have been agreed to be sold by the appellant/defendant. The said alteration goes to the root of the matter and constitutes a material alteration in the agreement Ex. P-1. Such a material alteration, carried out without the consent or knowledge of the appellant/defendant, renders the document doubtful and seriously impairs its authenticity and enforceability. Consequently, the agreement Ex. P-1 stands vitiated in law and becomes incapable of being specifically enforced, particularly since the relief of specific performance is an equitable and discretionary relief. It is well settled that a party seeking equitable relief must approach the Court with clean hands and disclose all material facts truly and fairly. A party who relies upon a document which is alleged to be fabricated or materially altered, and thereby seeks to enforce the same, is not entitled to any equitable indulgence from the Court. In such circumstances, the suit based on such a document cannot be decreed in favour of the plaintiff.

11. So far as the aspect of sale consideration is concerned, it is also borne out from the cross-examination of the respondent/plaintiff that at the time of execution of agreement Ex. P-1, no sale consideration was actually paid to the appellant/defendant. This admission, according to the appellant, goes to the root of the alleged transaction and casts serious doubt on the genuineness and validity of the agreement to sell. The relevant portion of the cross-examination of the respondent/plaintiff reads as under:

> *"I had given Rs. 30,000/- to Sardari Lal about 03 years and one month before today. It is correct that when Sardari Lal did not return Rs. 30,000/- to me then I got agreement Ex. P1 scribed and signed from Sardari Lal that he should sell his land to him."*

12. There is no recital in agreement Ex. P-1 to the effect that any earnest money was ever paid by the respondent/plaintiff to the appellant/defendant prior to its execution. On the contrary, the case set up by the appellant is that no such payment was made and that the alleged agreement to sell was in fact executed in the nature of a security for an alleged loan transaction. It is further contended that when the appellant/defendant allegedly failed to repay the said loan amount, the present agreement to sell was got executed. The most material document relied upon by the respondent/plaintiff is Ex. P-2, which is a joint application submitted by both the parties before the Station House Officer, Police Station Sadar, Pathankot. In the said application, it is recorded that in lieu of the agreement to sell, Sardari Lal had agreed to repay a sum of Rs. 39,000/- to Buta Ram, and it was further agreed that in the event Sardari Lal intended to sell the land, Buta Ram would be given a preferential right to purchase the same at the prevailing market rate. However, Sardari Lal had objected to the said condition stating that it was not necessary

that he would sell the land, though preference could be given. The said application Ex. P-2 is admittedly shown to have been moved before the SHO, Police Station Sadar, Pathankot. In his cross-examination, Buta Ram (PW-6) has himself admitted that the compromise application Ex. P-2 was executed on the directions of the SHO, Police Station Sadar, Pathankot, and that he had moved the said application with a view to pressurize Sardari Lal to pay a sum of Rs. 30,000/- to him. The relevant portion of his cross-examination reads as under:

> *"The compromise Ex. P-2 was got effected on the direction of SHO Police Station Sadar Pathankot. I had moved an application to said SHO against Sardari Lal to pressurise him to pay Rs. 30,000/- to me.*

13. From the testimony of the respondent/plaintiff itself, it becomes evident that both the Courts below have misread and misappreciated the evidence on record. A careful reading of the plaintiff's deposition clearly indicates that agreement Ex. P-1, as produced before the Court, was not the same document which was allegedly executed between the parties. The record further reveals that the said document had been materially altered prior to its production in Court, and such alteration was unilateral in nature, without any consent or knowledge of the appellant/defendant. It also stands established from the evidence on record that the underlying transaction between the parties was essentially a loan transaction of Rs.30,000/-. The respondent/plaintiff has categorically admitted that the appellant/defendant had borrowed a sum of Rs.30,000/- and upon his failure to repay the said amount, the alleged agreement was got executed. The plaintiff has further admitted that he had moved an application before the Station House Officer,

Police Station Sadar, Pathankot, with the intention of pressurizing the appellant/defendant to repay the said amount of Rs.30,000/-.

14. In view of the aforesaid admissions, it stands clearly established that the transaction between the parties was primarily in the nature of a loan transaction. The appellant/defendant had admittedly taken a loan of Rs.30,000/- which, according to the respondent, was not repaid. It is further apparent that to recover the said amount and to exert pressure upon the appellant/defendant, proceedings were initiated before the police, and it is in that backdrop that application Ex. P-2 came to be executed. It is further evident that agreement Ex. P-1 suffers from material alteration and cannot be safely relied upon for granting the discretionary relief of specific performance. In these circumstances, the findings recorded by the Courts below cannot be sustained and are liable to be set aside.

15. Accordingly, the appeal is **partly allowed,** judgment and decree passed by the Courts below are set aside, and the suit of the respondent/plaintiff is decreed only to the extent of recovery of Rs.30,000/- along with interest @ 9% per annum from the date of execution of agreement Ex. P-1 till the date of filing of the suit, and further *pendente lite* and future interest @ 6% per annum on the pre-suit amount, with no order as to costs.

16. Pending applications, if any, shall stand disposed of.

(VIRINDER AGGARWAL)
JUDGE

14.05.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No