



**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**S. A. No. 63 of 2022**

Rajmani Devi, W/O Shri Dilip Kumar, aged about 63 years, R/O  
New Colony, Kumhartoli, P.O. & P.S.:- Sadar, District- Hazaribag.

... .. **Appellant/Appellant/Plaintiff**  
Versus

1. Manoj Kumar Singh, S/o Late Narmadshwar Prasad Singh, R/O  
Village- Banahappa, P.O. & P.S.:- Muffasil, District- Hazaribag.
2. President of Hazaribag Carmel Society, Hazaribag through Sister  
Lisieuse, D/o Late Uthap Thomes, R/o Village- Cantonment,  
P.O.:- Sadar, P.S. Muffasil, District- Hazaribagh.

... .. **Respondents/Respondents/Defendants**

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**CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY**

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| For the Appellant | : Mr. Manjul Prasad, Sr. Advocate<br>: Mr. Baban Prasad, Advocate<br>: Mr. Aniket Rohan, Advocate<br>: Mr. Akhoury Prakhar Sinha, Advocate |
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**09/24.02.2025**

1. Heard the learned counsel appearing on behalf of the appellant.
2. The plaintiff is the appellant before this Court.
3. This appeal has been filed against the judgment dated 18.04.2022 and decree dated 30.04.2022 passed in Civil Appeal (Title Appeal) No. 15 of 2015 by learned District Judge IV, Hazaribag whereby the judgment and decree in Title Suit No. 93 of 2003 passed by learned Civil Judge (Sr. Division), Hazaribag dismissing the suit has been upheld.
4. The learned counsel for the appellant has submitted that though there are concurrent findings involved in this case but still the appeal is fit to be admitted on account of substantial question of law No. B and C as framed in the memo of appeal which are quoted as under:-

*“(B) Whether while affirming the Judgment and Decree of Trial Court, the learned appellate court erred seriously by declaring the sale deed of Defendant as legal and valid in spite of settled principal of law that before getting registered sale deed*



*purchaser has to make an inquiry regarding current status of land in question? (AIR 2001 SC 1658)*

*(C) Whether both the courts below have illegally taken recourse of Section 19(b) of the Specific Relief Act in view of the fact that the plaintiff was always ready and willing to perform his part of agreement dated 26.09.98 (Ext.-1) and in pursuance thereof mutated her name, improved the land by putting pillars etc. And as such she is entitled for the decree of specific performance of agreement by executing the sale deed in her favour?"*

5. The learned counsel for the appellant submits that the suit was filed for specific performance of contract and the agreement was dated 26.09.1998 and title suit was instituted on 05.07.2003 being Title Suit No. 93 of 2003. As per the agreement the total consideration amount was Rs.1,25,000/- out of which Rs.40,000/- was paid in advance and payment of Rs.85,000/- was to be made at the time of execution of the deed. It was specific case of the plaintiff that the defendant No. 1, who was the party to the agreement and owner of the property, was in urgent need of money and an amount of Rs.10,000/-, Rs.9,000/-, Rs.6,000/-, Rs. 20,000/-, Rs.23,000/- and Rs.15,000/- was paid on 12.10.1998, 27.01.1999, 21.08.1999, 16.03.2000, 14.08.2000 and 11.06.2001 respectively and if advance amount of Rs.40,000/- is taken together the total amount of Rs.1,23,000/- was already paid and the remaining amount i.e. Rs.2,000/- was due for the purpose of the execution of agreement.

6. The plaintiff issued notice dated 05.03.2003 to the defendant No. 1 for the purpose of execution of the deed and expressed his readiness to pay Rs.2,000/-, to which the defendant No. 1 did not respond and in the meantime the defendant No. 1 executed a sale deed No. 9072 of 2003 dated 13.06.2003 in favour of defendant No. 2. Consequently, since the sale deed was executed in favour of defendant No. 2, they were also made party in the suit. Defendant No. 1 was debarred from filing the written statement and the written statement was filed only by defendant No. 2.

7. The learned counsel for the appellant has submitted that the learned trial court has not properly considered the provisions of



Section 19(b) of the Specific Relief Act and it was for the defendant No. 2 that before getting the registered sale deed he was required to make necessary inquiries in connection with the status of the land in question. The learned counsel has also submitted that the specific case of the plaintiff was that after payment of consideration amount, they were also put in possession of the property and such stipulation was mentioned in the agreement of sale itself.

**8.** After hearing the learned counsel appearing on behalf of the appellant, this Court finds that the aforesaid fact which has been stated by the appellant with regard to execution of an agreement of sale and payment of consideration amount of Rs.1,23,000/- is not in dispute and the learned trial court had directed the defendant No. 1 to refund the amount of Rs. 1,23,000/- with simple interest @15% per annum from the date of filing of the suit till the payment of total amount with interest.

**9.** It is apparent that it was only defendant No. 2 who has contested the suit before the court.

**10.** The learned Trial Court has formulated as many as 11 points for consideration which are as follows: -

- i. *Whether the suit is maintainable in its present form?*
- ii. *Has the plaintiff got any cause of action for the suit?*
- iii. *Is the suit barred by the provisions of Specific Relief Act?*
- iv. *Is the suit barred by law of limitation?*
- v. *Is the suit barred by provision of Indian Contract Act?*
- vi. *Whether the suit is bad for non-joinder of the parties?*
- vii. *Whether the suit property is properly valued and the court fee is sufficient?*
- viii. *Whether the plaintiff is entitled for a decree for Specific Performance of Contract in regard to the land in suit more fully described in Schedule- 'A' to the plaint.*
- ix. *Whether the sale deed executed by defendant No. 1 in favour of defendant No. 2 is respect of the*



*suit property dated 13.06.2003 is ab-initio, void, inoperative and the plaintiff is not bound by the same?*

- x. *Whether the plaintiff is entitled for recovery of possession of the land in suit?*
- xi. *To what relief or reliefs, if any, the plaintiff is entitled to?*

**11.** The learned Trial Court has decided Issue No. (VIII), (X) and (XI) vide paragraph 6 of the judgment and recorded the finding that defendant No. 2 was in possession of the property after constructed boundary wall and has also recorded a finding that the defendant No. 2 was bona fide purchaser having no prior knowledge of agreement of sale. The learned trial court also referred to the agreement of sale and its clauses which required measurement of land, construction of pillars for exact location of the schedule property of the agreement and certain other steps were also required to be undertaken prior to execution of the sale deed.

**12.** The learned trial court, primarily on the basis of possession of defendant No. 2, admitted the fact that the sale deed was executed in favour of defendant No. 2 and that the defendant No. 2 was a *bona fide* purchaser and had no prior knowledge of the agreement and dismissed the suit.

**13.** The learned 1<sup>st</sup> appellate court formulated the following points for determination in paragraph 11 of the 1<sup>st</sup> appellate court judgment which is quoted as under:-

*“(a) Whether the agreement for sale dated 26.09.98 was valid, genuine and the plaintiff/respondent was ready and willing to perform her party of contract?”*

*“(b) Whether the defendant No. 2 was fully aware or having knowledge about the agreement for sale dated 26.09.98 prior to the registered sale deed dated 13.06.2003, if not he is entitled to get the protection u/s 19(b) of The Specific Relief Act or not?”*

*“(c) Whether the plaintiff/respondent is entitled to get decree of the Specific Performance of Contract for sale of the schedule land?”*



**14.** The learned 1<sup>st</sup> appellate court took all the points for determination together vide paragraph 19 and discussed the materials on record and ultimately recorded a finding that the defendant No. 2 has already constructed boundary wall over the land and incurred expenses and that it was established that none of the person on behalf of defendant No. 2 had any knowledge and notice prior to the agreement of sale dated 26.09.1998 and ultimately dismissed the appeal by referring to Section 16(c), Section 19(b) and Section 20 of Specific Relief Act 1963 as well as the conduct of the parties and that 24 years had elapsed from the date of agreement of sale dated 26.09.1998. The learned 1<sup>st</sup> appellate court held that the defendant No. 2 was entitled to get protection of Section 19(b) of The Specific Relief Act and dismissed the appeal and upheld the direction of learned trial court to refund an amount of Rs.1,23,000/- to the plaintiff by defendant No. 1.

**15.** This Court finds that both the courts have scrutinized the materials on record and have come to a concurrent finding with regard to possession of defendant No. 2 and also the fact that defendant No. 2 had no prior knowledge with regard to the agreement of sale. This Court finds that the point of law formulated in the memo of appeal as pointed out by learned senior counsel for the appellant are essentially a point regarding reappreciation of the materials on record and no perversity as such has been pointed by the learned counsel for the appellant with regard to appreciation of materials on record by both the courts ; there has been concurrent findings with regard to the protection which as per law is to be given to the defendant No. 2 under Section 19(b) of The Specific Relief Act. Section 19 (b) of the Specific Relief Act, 1963 clearly provides that specific relief of performance of contract can be enforced against any other person claiming under the person against whom specific performance is sought who claims title arising out of subsequent contract, except a transferee for value who has paid his money in good faith and without notice of the original contract. In the present case the plaintiff failed



to prove that the subsequent purchaser had knowledge or notice about the previous contract / agreement of sale.

**16.** This Court finds that no substantial question of law arises in this second appeal, which is hereby dismissed.

**17.** Pending interlocutory application, if any, is dismissed as not pressed.

**18.** Let this order be communicated to the concerned court through FAX/E-mail.

**(Anubha Rawat Choudhary, J.)**

*Rakesh/-*