

Col. y. Singh

Ram Singh Yadav Vs. M/s Om Parkash Baldev Kishan and ors.

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IN THE COURT OF REETU YADAV, HCS, CIVIL JUDGE (JR.DIVN.),
FARIDABAD

Civil Case No.144

Date of Institution:1.11.2007/20.4.2013

Date of Decision:5.5.2014

Ram Singh Yadav son of Sh.Kanhiya son of Ghasi Ram, Resident of A-31, Panchvati Colony,
Opposite Azadpur Sabji Mandi, Delhi-32.

.....Plaintiff

Versus

1. M/s Om Parkash Baldev Kishan, PSF Work G-6 & 7 Vikram Tower Rajendra Place, New Delhi.
2. Deepak Sikander son of H.S.Sikander
3. H.S.Sikandar son of R.S.Sikandar, R/o 3-E, Shastri Nagar Azmer.
4. Surender Gupta son of Kasturi Lal, resident of H-27, Ashok Vihar, Delhi.
5. Director General Air Force, Navel Housing Board Race Course, New Delhi.
6. J.S.Maam son of Sardar Singh son of Bhagat Singh
7. Smt.Rajender Kaur wife of Sh.Jasvir Singh, residents of 56/461, Ashok Vihar Dhola Cantt. Delhi-10.
8. Pardeep Jain son of S.P.Jain, resident of I-Babar Lane, Bangali Market, New Delhi.
9. Vinod Kumar Bagga son of T.D.Bagga, resident of B-50 Khanpur Extension Devli Road, New Delhi.
10. S.K.Khera son of Sh.R.N.Khera, resident of 543/18, S.P.Marg, New Delhi
11. Ansu Kumar Mahta son of Ved Raj Mahta son of Pehlad Chand
12. Smt.Suman Katoch Mahta wife of S.K.Mahta, resident of 403, Shishora Tower Yamuna Nagar Off Link Road Andheri Mumbai West.
13. J.S.Malhotra son of S.Malhotra, resident of 2114, Phase-7, SAS Nagar, Chandigarh.
14. N.A.Verma son of D.A.Verma, resident of P 226, Sector-21, Jalvayu Vihar Noida U.P.
15. O.P.Kukreja son of Yashpal, resident of C/o Shobhna Khatri, 5283, ground floor, G.K.Part-I, New Delhi.
16. Manmohan Singh son of Sunder Singh
17. Amrita Mohan wife of M.M.Singh, resident of C-MLO Housing Quarter, TRG Command, IAF Harbal Bangalore.
18. Sangeet Sharma son of Dr.S.C.Sharma Airforce Station Bani Camp, Nazabgar, New Delhi.

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19. N.S.Ahluwalia son of Maharaj Singh, resident of 66 Sukhdev Vihar, New Delhi.
20. J.S.Maam son of Sher Singh, 36/161, Arjun Vihar, Dhola Kua, New Delhi.
21. S.Ahluwalia son of Maharaj Singh son of Harnam Singh, resident of 66 Sukhdev Vihar, New Delhi.
22. Ravi Kohli son of Sh.D.R.Kohli, resident of 406 Technology Apartment, 24 Patpadganj, Delhi.
23. O.P.Kukreja son of Yashpal son of Pyara Ram, resident of C/o Shobhna Khatri, 5283 G/F, G.K.Part-I, New Delhi.
24. J.S.Malhotra son of Sh.S.S.Malhotra, resident of 2114 Phase-7, SAS Nagar, Chandigarh.
25. Anshu Kuamr Manta son of Ved Ram Manta, resident of 403, Shishra Towers, Yamuna Nagar, Off Link Road, Andheri West Mumbai.
26. S.S.Saini son of Fakir Chand Saini, resident of L-80, 25 Jalvayu Vihar Noida.
27. Smt.Dipika wife of M.M.Dutt son of Bishamber Nath, C/o R.K.Manta, B-1, 1618, Basant Kunj, New Delhi.
28. Gianender Kumar Maihotra son of Sh.K.K.Malhotra son of Shiv Narain, R/o SE Airforce Extension Barreley.
29. Shobhan Singh son of Tej Singh, resident of E-30/6, Phase 2 DRDP Complex C B V.Raman Nagar, Bangalore.
30. Neeraj Kumar Singla son of Chaman Lal, resident of A-33, Kailash Colony, New Delhi.
31. A.N.Verma son of C.A.Verma son of Vasadh Ram, resident of 226, Sector-21, Jalvayu Vihar, Noida.
32. Deepak Sikandu son of H.S.Sikandu, resident of E-3 Shastri Nagar, Ajmer.
33. Subhash son of Thau Ram son of Himraj, resident of B-3/248, Paschim Vihar, New Delhi.
34. Man Mohan Singh son of Col.Sunder Singh son of jagat Singh, resident of CIL.MOH, New Training Command, I.A.F.Bhawan Bangalore.
35. Charanjit Singh son of M.S.Khurana son of H.S.Khurana, resident of C/o R.K.Yadav, C-6/55, Sector-31, Noida, U.P.
36. Vinod Kumar son of T.D.Bagga son of Fateh Chand, resident of C/o Pawan Kumar Khanpur Extension Devli, Delhi.
37. Sangeet Sharma son of Dr.S.S.Sharma, resident of Airforce Station Nazafergarh, Delhi.
38. R.K.Srivastwa son of I.B.Srivastwa, resident of A.D.C.C.H.Q.A.C.I.A.F Subrota Park, New Delhi.
39. R.P.S.delhi son of Narender Singh, resident of Pasrola Park, New Delhi.
40. Smt.Nirmala Kawaja widow of Satpal Kawaja, resident of A-9, Greater Kailash, New Delhi.
41. S.K.Khera son of R.N.Khera
42. K.C.Khera, resident of 543/18, S.P.Marg, New Delhi.
43. Rajiv Gupta son of Riyu Daman Singh son of Bakhtawar Singh, resident of C-5/27,

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Safdarjang Double Payment Area, New Delhi.

44. Satinder Singh son of Sewa Singh son of Bhagat Singh, resident of 263 Singals Unit Air Force through 36A 20.
45. Bijender Singh Yadav son of Ganesh Lal son of Budh Ram, resident of District czgar Adhikari Narnaul Haryana.
46. Kirpal Sing son of Kanoji Lal son of Nand Ram, resident of Education Section Airforce Abadi Madras.
47. Pankul Nag son of Rajender Gopal Nagar, resident of D-11A 21 South Moti Marg, New Delhi.
48. Umesh Gupta son of Ram Gopal Gupta, resident A.D.S.Nawal Unit M.C.C.Lamba line Post Delar.
49. Mathew Jeji son of C.B.George, resident of 20/PKTC Sidharth Extension, New Delhi.
50. J.S.Maan son of Sher Singh son of Bhagat singh, resident of 36/46, Arjun Vihar Dhola Kuan, New Delhi.
51. N.S.Ahluwalia son of Maharaj Singh, resident of 66 Sukhev Vihar, New Delhi.
52. Ravi Kohli son of D.R.Kohli son of Gobind Ram, resident of 406 Technology Apartment Patpadganj, Delhi.
53. O.P.Kukreja son of Yash Singh Kukreja, resident of C/o Shobha Khatri House No.K.S.283, ground floor, Greater Kailash Bhag I, New Delhi.
54. J.S.Malhotra son of Sh.S.S.Malhotra, resident of 2114 Phase-7, SAS Nagar, Chandigarh.
55. Anshu Kumar son of Ved Raj Mahta son of Prehlad, resident of 403, Sishi Towers, Yamuna Nagar, Off Link Road, Andheri West Mumbai.
56. S.S.Saini son of Fakir Chand Saini son of Sohan Lal, resident of L-80, Sector-25, Jalvayu Vihar, Noida, U.P.
57. Smt.Dipika wife of M.M.Dutt, resident of C/o R.K.Manta, B-1, Basant Kunj, New Delhi.
58. Gianender Kumar Malhotra son of Sh.K.K.Malhotra, r/o S.G. (4) Airforce Station Barreli.
59. Soman Singh Dyoda son of Tej Singh Dayoda, resident of 30/6, Phase 2 DRD Complex C.P.Raman Nagar, Bangolore.
60. Neeraj Kumar Singla son of Chaman Lal, resident of A-33, Kailash Colony, New Delhi.
61. P.K.Dass Verma son of R.N.Dass, resident of C/o M.MK.Sindhi Flat No.1154, Pocket A Basant Kunj, Delhi.
62. Kuldeep Roy son of Dr.S.C.Aggarwal son of S.M.Aggarwal, resident of A HQ West Block 6 R.K.Puram, New Delhi.
63. Anil Pandey son of T.NPandey son of M.R.Pandey, resident of B-66 Yashpal Tilak Nagar, Jaipur.
64. Sunil Kumar son of Narender Nath Kohli son of Sardari Lal Kohli, resident of C/o Satish Mehta IInd Pocket 7 Flat No.7244 Basant Kunj, New Delhi.
65. Rajender Kumar son of Kundan Lal Arora son of Bodha Ram, resident of BX 1038

(Recta Yadav)

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Faridkot Road, Kotak Pura, District Faridkot Punjab.

66. Parmod Kumar Tayal son of Bashamber Sahai son of Bhagat Singh, resident of ASI C/o ADFC V Ram Nagar, Bangalore.
67. Jasvinder Chauhan son of Ajmer Singh Chauhan, resident of O.To A O.C.N.C. HQ I.A.L.SWAG, Jodhpur, 432-II.
68. Rajiv Gode son of A.K.Gode son of R.K.Gode, resident of C/o Navdeep Nakara, 6/44 Old Rajender Nagar, New Delhi.
69. Tajender Singh son of Rathore son of Thakur D.S.Rathore, resident of C-43, Hole House Lajpat C.Skeen Rajasthan.
70. Joseph Seeras son of Krishni Pin Joseph, resident of 3 S.F. C/o 56 ADO.
71. Sudhir Saxena son of R.M.Saxena son of G.R.Saxena, resident of C/o O.S.Soothar Room No.111D.M.O.D. South Block, New Delhi.
72. Rajender Kumar Bansal son of M Bansal son of Shri Ram, resident of A 117, Sector-21, Noida, U.P.
73. S.N.Ahluwalia son of Maharaj Singh son of Harnam Singh, resident of 66 Sukhdev Vihar, New Delhi 25.
74. R.P.S.Dhilo son of Major General Narender Singh son of Surat Singh, resident of 11 Subrothoi Park, New Delhi.
75. Subhash Chand son of Thau Ram son of Hem Raj, resident of B-3/248, Paschim Vihar, New Delhi.
76. Charanjit Singh son of A.S.Khuraja son of H.S.Khurana, resident of C/o R.K.Yadav C-6/55, Sector-31, Noida U.P.
77. Smt.Nirmala Kawatri wd/o Satpal Kuwatro.
78. Manoj Kawashi son of Satpal Kawashi, resident of A-9, G.K.Enclave II, New Delhi.
79. Ravi Kohli son of Sh.D.R.Kohli son of Gobind Ram.
80. Smt.manju Kohli wife of Ravi Kohli son of D.R.Kohli, resident of 406, Technology Apartment 24, Patpadganj, Delhi.
81. R.K.Sriwastwa son of I.B.Sriwastwa son of R.P.Sriwastwa, resident of I ADCOOHQHACIAF Sumrato Park, New Delhi.
82. Ram Parkash Kapoor son of Luxmi Narain Kapoor son of J.N.Kapoor, resident of 3125, Sector-27D, Chandigarh.

.....Defendants

SUIT FOR DECLARATION WITH CONSEQUENTIAL RELIEF OF POSSESSION

Present: Sh.S.C.Mahna, Advocate for plaintiff.
Sh.Sandeep Gosain Advocate for defendant No.1.
Sh.Vineet Bajaj Advocate for defendants No.2 and 3.
Sh.L.N.Parashar Advocate for defendants No.5 to 7 and 9 to 82.
Defendant No.4 exparte vide order dated 16.8.2010.
Defendant No.8 exparte vide order dated 30.8.2012.

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JUDGMENT:

The present suit has been filed by the plaintiff seeking relief of declaration to the effect that plaintiff is owner in possession of the land mentioned in para No.1 of the plaint and the alleged sale deed dated 2.7.89 is false, fictitious and forged document. It is further prayed that a decree for possession in respect of land mentioned in para No.1 of the plaint be also passed.

2. Briefly stated, the case of the plaintiff is that he is owner in possession of the land comprised bearing Khewat no.91, Khatoni No.123, Mustil No.9, Killa No.14 (8-0), 17 (8-0), 18 (8-0), 19 (8-0), 20 (8-0), 21 (8-0), 22 (8-0), 23 (8-0), 24 (8-0), 25 (8-0), Mustil No.10, Killa No.16 (7-13), 24 (7-3), 25 (8-0) total 13 Kita measuring 102 Kanals 16 Marlas situated within revenue estate of Village Kabulpur Patti Mehtab vide jamabandi for the year 1986-87.

3. It has been averred that defendant No.1 through its partners got fabricated a sale deed dated 2.7.1989 and registered in their favour from the office of Sub Registrar Faridabad got a sale deed forged through representatives and forged the signatures of the plaintiff and the same has been registered on 5.7.1989. On the basis of forged sale deed, mutation was sanctioned by defendant No.1. Defendants No.1 sold the land in part to defendants No.2 to 82 through various sale deed. The plaintiff never executed and got registered the sale deed in favour of defendant No.1. The plaintiff never signed nor received any consideration from defendant No.1 in respect of sale in question. The signatures on the sale deed are also forged which appears to have been done by free hand. The plaintiff continues to be the owners of the suit land. Since the impugned sale deed and mutations, entries in jamabandies are illegal and not binding on the plaintiff. Defendants have no right, title or interest in the suit land. Defendants were asked several times to vacate the land and to hand over the possession to the plaintiff but they failed to do so. Hence, the present suit.

4. Upon notice, defendant no.1 appeared and filed his written statement taking preliminary objections on the ground that suit of the plaintiff is not maintainable in the present

form and plaintiff has not approached the court with clean hands and had concealed true and material facts. It was submitted that plaintiff is estopped from his own act and conduct, behaviour, waiver and acquiescence from filing the present suit against the replying defendant as plaintiff has seeing the replying defendant as well as successors-in-interest in possession of the suit land as owners and plaintiff never objected the same since last 17 years. It was further submitted that the suit is time barred and is bad in the eyes of law. It was also submitted that plaintiff has not filed the proper court fee.

5. Upon merits, it was submitted that plaintiff is not owner in possession of the suit land. It was submitted that plaintiff has illegally filed the copy of jamabandi for the year 1986-87 whereas the suit has been filed in the year 2006. It was submitted that plaintiff sold out the suit property in year 1989 on 5th July on a sale consideration of Rs.1,50,000/-. Defendant No.1 paid the sale consideration through pay order duly issued at New Bank of India at New Delhi and thereafter, plaintiff delivered and handed over the actual physical possession of the suit property to the defendant. It was further submitted that on the basis of legal and valid sale deed dated 5.7.1989, defendant No.1 further sold out the suit property to various other person. His successors-in-interest has also purchased the property through valid sale deeds. It was denied that defendant No.1 has forged signature of plaintiff on sale deed dated 5.7.1989. It was further prayed that suit is liable to be outrightly rejected with heavy costs as plaintiff has asked not only defendant No.1 but also other person in a false suit.

6. Defendants No.2 and 3 filed their joint written statement taking preliminary objections on the ground that suit of the plaintiff is not maintainable in the present form, suit of the plaintiff is barred by limitation and plaintiff has not affixed advalorem court fee.

7. Upon merits, it was submitted by answering defendants that defendants No.2 and 3 had purchased the suit property from its previous owner vide registered sale deed bearing 3642 dated 4.6.1997 which is registered in the office of Sub Registrar. It was further submitted that defendants No.2 and 3 are bonafide purchasers who have purchased the suit property after giving the valuable consideration, hence, no suit is maintainable against them. Other averments

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made in the plaint by plaintiff were denied in toto by defendants No.2 and 3 and it was submitted that suit is liable to be dismissed.

8. Defendants No.2, 3, 5 to 7 and 9 to 82 also filed their joint written statement taking preliminary objections as lies to defendants No.2 and 3. They also submitted that they had purchased the property through registered sale deed which are duly incorporated in the office of Sub Registrar Ballabgarh. It was also submitted that they had paid valuable consideration and no fraud was played upon by them to get the sale deed registered in their favour.

9. Notice was served upon defendants No.4 and 8 but did not appeared before the court and they were proceeded against exparte vide order dated 16.8.2010 and 30.8.2012 respectively.

10. No replication was filed and after considering the pleadings of the parties following issues were framed vide order dated 2.9.2011:-

1. Whether the plaintiff is entitled to a decree for possession? OPP
2. Whether the suit of the plaintiff is not maintainable in the present form? OPD.
3. Whether the suit of the plaintiff is barred by limitation? OPD.
4. Whether the suit is bad for mis-joinder and non-joinder of necessary parties? OPD.
5. Whether this Hon'ble Court has no jurisdiction to try and entertain the present suit? OPD.
6. Relief.

11. Vide order dated 3.5.2014, issue No.1 was re-framed as under:-

1. Whether the plaintiff is entitled for a decree of declaration with consequential relief of possession? OPP.

12. Thereafter, the case was fixed for plaintiff evidence and in order to prove his case, Savinder Kumar, ARC, as PW1 who brought the summoned record of vasika No.5998 and certified copy of the same is Ex.P1 on record

13. Sh.Ram Singh, plaintiff himself examined as PW2 and tendered in his evidence his duly sworn in affidavit as Ex.PW2/A. Following documents have been tendered by plaintiff

in his evidence:-

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Ex.P1	Jamabandi for the year 1986-87
Ex.P2	Sale deed No.5998 dated 5.7.1989
Ex.P3	Jamabandi for the year 1991-92
Ex.P4 & P15	Jamabandies for the year 2001-02

14. Sh.Kamal Kant Khandwal, handwriting and finger print expert, has been examined as PW3 who proved photo enlargement as Ex.PW3/1 to Ex.PW3/9, their negatives as Ex.PW3/10 and report which was prepared by him as Ex.PW3/11.

15. Thereafter, evidence of plaintiff was closed by court order vide order dated 24.9.2013 and to counter the case of the plaintiff, defendants examined Sh.Rajiv Abbi as DW-1 who tendered in his evidence his duly sworn in affidavit as Ex.DW1/A. Following documents have been tendered by defendants in their evidence:-

Ex.D1	Sale deed bearing vasika No.23637 dated 4.2.2013
Ex.D2	Pattanama bearing vasika No.6616 dated 26.8.1996
Ex.D3	Sale deed bearing vasika No.16820 dated 9.3.1998
Ex.D4	Pattanama bearing vasika No.4218 dated 4.7.1996

16. Sh.B.S.Nirola has been examined as DW2 who tendered in his evidence his duly sworn in affidavit as Ex.DW2/A and certain documents i.e. various Special Power of Attorney as Ex.DW2/1 to Ex.DW2/41, various mutation as Ex.DW2/42 to Ex.DW2/72 and Mark-1 to Mark-101.

17. Sh.B.N.Srivastava has been examined as DW3 who tendered in his evidence his duly sworn in affidavit as Ex.DW3/A and his report as Ex.DW3/1.

18. Sh.Tribhawan Kumar has been examined as DW4 who tendered in his evidence his duly sworn in affidavit as Ex.DW4/A and certificate as Ex.DW4/1.

19. Sh.Sukhdev Raj has been examined as DW5 who tendered in his evidence his duly sworn in affidavit as Ex.DW5A.

20. Sh.Rajender Prasad has been examined as DW6 who tendered in his evidence his duly sworn in affidavit as Ex.DW6/A. He also tendered attested photocopy of cash book as

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Ex.DW6/1 and certificate as Ex.DW6/2.

21. Sh.Ghanshyam has been examined as DW7 who proved letter dated 6.2.2014 as Ex.DW7/1 and statement of account as Ex.DW7/2.

22. Sh.Sukhviri Singh, ARC, has been examined as DW8 who brought the summoned record of sale deed bearing vasika No. 5998 dated 5.7.1989 and tendered certified copy of the same as Ex.DW8/1.

23. Sh.Sriamannarayana, Asstt.Admin. Officer has been examined as DW9 who tendered in his evidence his duly sworn in affidavit as Ex.DW9/A.

24. Thereafter, evidence of defendants was closed by court order vide order dated 4.3.2014.

25. In rebuttal evidence, learned counsel for the plaintiff has tendered certified copy of statement of account as Mark-X and closed the same vide his statement dated 25.4.2014.

26. Arguments have been advanced by Sh.S.C.Mahna, Advocate for plaintiff, Sh.Sandeep Gosain Advocate for defendant No.1, Sh.Vineet Bajaj Advocate for defendants No.2 and 3 and Sh.L.N.Parashar Advocate for defendants No.5 to 7 and 9 to 82. The entire evidence available on file has been thoroughly and carefully perused. The issue wise findings with reasons thereof on the above issues are as under:-

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ISSUES NO.1 TO 3:-

27. All these issues are taken up together as they are mixed questions of facts and law.

28. It was argued by learned counsel for the plaintiff that he is owner in possession of the suit property as mentioned in para No.1 of the plaint situated at Village Kabulpur Patti Mehtab. Defendant No.1 got a fabricated sale deed registered in his favour dated 2.7.1989 and got mutation sanctioned in his favour vide jamabandi for the year 1992. The act done by defendant No.1 is condemnable and is liable to be set aside. It was submitted that plaintiff got the sale deed examined from a non-handwriting expert. After obtaining the certified copy on 2.5.2007, he got to know that he had not signed the same, therefore, it was prayed that sale deed be declared null and void and he shall be declared as owner in possession of the suit (Reety Yadav)
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property.

29. It was further argued by learned counsel for the plaintiff that defendants have failed to produce the original sale deed on file and have failed to produce that they had paid any cheque or pay order to the plaintiff in sale consideration. It was further argued that the whole evidence led by defendants is full of lacuna and defendants have failed to establish that the property was purchased by a firm which is now defunct. It was further submitted that the defendants had failed to disclose that who purchased the property. It is further submitted that even defendants No.2 to 82 have failed to produce before the original sale deeds executed in their favour. Hence, defendant's evidence cannot be considered and he is entitled for decree of declaration as prayed for. It was further argued by him that the suit is within limitation as plaintiff acquired the knowledge of disputed sale deed dated 5.7.1989 on 1.5.2007/2.5.2007. It is submitted that as per Article 59 of Limitation Act and has held in Abul Kalam Vs. Abdul Zabar AIR 2010 (S.C.) 211 his suit is within limitation. It was further argued by him that the defendants have failed to produce the original sale deed allegedly executed by plaintiff in their favour and therefore, in view of Raja Ram Vs. Krishan Lal 2009 (1) CCC 090 their evidence cannot be read and adverse inference be withdrawn. He further placed reliance of his argument on Kiran Das Vs. Uma Ram Bhuyan and anr. 2007 (3) CCC 255.

30. On the other hand, it was argued by learned counsel for the defendants with vehemence that suit is full of errors. It is liable to be thrown out at the very outset. It was submitted that plaintiff has wrongly mentioned the date of sale deed i.e., 2.7.1989 which is actually 5.7.1989. Till date plaintiff has not filed any plea for amendment. It was submitted that plaintiff has filed the suit for possession. however, in para No.1 of the plaint, he has stated himself that he is owner in possession of the suit property. It was further submitted that suit is time barred as the sale deed challenged is of year 1989 and he has filed the suit in year 2006 i.e. approximately 18 years of execution of sale deed. It was further submitted that the prayer

made by plaintiff is errorness, vague and baseless as he has sought the relief that sale deed

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dated 2.7.1989 alongwith other sale deeds be passed in his favour. Learned counsel for the defendants further argued that the suit is barred by law of limitation, waiver and acquiescence. It was further argued that the presumption of correctness is attached with the registered document so as is with the sale deed allegedly challenged by plaintiff dated 5.9.1989. To prove the factum of fraud, the plaintiff has led no evidence and has merely stated that the sale deed has been obtained by fraud. It was argued that no specific mode of fraud has ever mentioned by the plaintiff or his counsel. It was further submitted that the plaintiff has failed to prove the condonation of delay in filing of present suit and therefore, suit be rejected with costs.

31. I have heard the rival contentions made by counsel for the parties and have perused the record present on file on this issue.

32. It is settled law by now that the pleadings has to be roved by the parties on their own. No party can take advantage from opposite parties laouna. My view takes from I.L.P. State Electricity Board & another Vs. Aziz Ahmad 2009 2 SCC 606. Not only this it is also settled that the parties must come with clean hands and should be vigilant about their case. If we consider the pleadings made by plaintiff as well as evidence led by him in the light of above discussion, it is apparent that plaintiff has slept over his right for 18 long years. Secondly he had given a wrong date in the plaint and has asked for a well vague and blanket order as he has not been mentioned the particulars of the sale deed which were executed in favour of defendants No.2 to 82. Dragging 82 people in a litigation without any documents itself is an abuse of process of law. However, even if without considering the same, we go through the evidence of plaintiff, he has failed to establish that the sale deed dated 2.7.1989 was illegal null and void. Mere averring before the court that somebody has played fraud with him is not sufficient. Every pleading has to be proved with cogent evidence. On oath plaintiff had submitted that he is owner in possession. However, the suit has been filed for possession itself. Although we can give benefit of doubt to a person who is illiterate but not to the counsel who has vast knowledge in the field of law with many years of experience and practice.

Furthermore, plaintiff himself was examined as PW2 who had given casual answer such as he
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does not know when his affidavit was written. He cannot see. Further, he has gone to admit that he had the knowledge of possession of defendant No.1 over the suit property since beginning. Further, he had stated that he got to know that some one had encroached upon his land in 1995. It is very strange that why did plaintiff sleep over for so many years and did not file any suit for possession at that time. Not only this he knew that his property measuring 102 Kanals 16 Marlas worth millions have been fraudulently taken by some person. Even then he did not take any action and kept on sleeping. It has been stated by the plaintiff that he gave a complaint to the police to get an FIR registered against defendant No.1 for forging the sale deed. However, the plaintiff has failed to produce even a copy of that complaint. Other witnesses called upon by the plaintiff are not relevant. The defendants have placed on record sale deed dated 5.7.1989 as Ex.D1 which has been duly proved by them. By bringing on record Ex.D6/1, defendants have proved that an amount of Rs.1,50,000/- was debited from their accounts. Furthermore, in my opinion, the arguments led by learned counsel for the defendants that the suit is barred by limitation holds weight. At one place plaintiff had submitted that he got to know about the sale deed in the year 2006 when he took certified copy of the sale deed. It is unexplained that why did he take certified copy in the year 2006. When there is so much delay in filing of a suit, the plaintiff has to specify the reason of delay.

33. Furthermore, the arguments led by learned counsel for the plaintiff that the defendants have failed to establish a great defence does not hold any weight as in Kiran Das Vs. Uma Ram Bhuyan and anr. (Supra) itself has stated that if the execution of a registered sale deed is denied by plaintiff, the burden to prove is upon the plaintiff and in case of failure of discharge of that burden, suit is liable to be dismissed. In the case in hand plaintiff has averred that he did not execute the sale deed dated 5.7.1989 and therefore, onus to prove the assertion was upon him. Mere asserting that he did not execute the sale deed is not sufficient in eyes of law but the same has to be proved by cogent and credible evidence. My view takes support from the authority cited by plaintiff himself that is Raja Ram Vs.

Krishan Lal (Supra). No substantial evidence has been led by plaintiff to discharge his

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burden. Further, it is settled law that poor defence cannot help the plaintiff to prove his case. Plaintiff has to stand on his own legs and cannot take advantage from defects in the defendant's evidence.

34. In view of above discussion, issue No.1 is decided against the plaintiff and in favour of defendants. Issues No.2 and 3 are decided in favour of defendants and against the plaintiff.

ISSUES NO.4 AND 5:-

35. The onus to prove these issues was upon the defendants but during the course of arguments, learned counsel for defendants did not press these issues nor any evidence was led to prove these issues. Hence, these issues are decided against the defendants and in favour of the plaintiff.

ISSUE NO.6 (DEFENCE).

36. As a sequel to my findings on aforesaid issues, the suit of the plaintiffs fail and is hereby dismissed. Parties are left to bear their own costs. Decree-sheet be prepared accordingly. File be consigned to the record room, after due compliance.

Announced in open Court.
Dt.5.5.2014

(Reetu Yadav)
Civil Judge(Jr.Divn.)
Faridabad.

Note:- This judgment contains thirteen pages and all the pages have been checked and signed by me.

Application No. 14164
Date of Presentation 9-5-14
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(Reetu Yadav)
Civil Judge(Jr.Divn.)
Faridabad, 5.5.2014.

CERTIFIED TO BE TRUE COPY
Mr. 19/5/14
Examiner
Authorized by Sec.-76, of the
Indian Evidence Act

Ram Singh Yadav Vs. M/s Om Parkash Baldev Kishan and ors.

-1-

Value of the suit for the purpose of jurisdiction fees is Rs 8950/-

Value of the suit for the purpose of court fees is Rs 120/-

Decree-Sheet

IN THE COURT OF REETU YADAV, HCS, CIVIL JUDGE (JR.DIVN.), FARIDABAD

Civil Case No.144

Date of Institution: 1.11.2007/20.4.2013

Date of Decision: 5.5.2014

Ram Singh Yadav son of Sh.Kanhiya son of Ghasi Ram, Resident of A-31, Panchvati Colony,
Opposite Azadpur Sabji Mandi, Delhi-32.

.....Plaintiff

Versus

1. M/s Om Parkash Baldev Kishan, PSF Work G-6 & 7 Vikram Tower Rajendra Place, New Delhi.
2. Deepak Sikander son of H.S.Sikander
3. H.S.Sikandar son of R.S.Sikandar, R/o 3-E, Shastri Nagar Azmer.
4. Surender Gupta son of Kasturi Lal, resident of H-27, Ashok Vihar, Delhi.
5. Director General Air Force, Navel Housing Board Race Course, New Delhi.
6. J.S.Maan son of Sardar Singh son of Bhagat Singh
7. Smt.Rajender Kaur wife of Sh.Jasvir Singh, residents of 36/461, Arjun Vihar Dhola Cantt. Delhi-10.
8. Pardeep Jain son of S.P.Jain, resident of 1-Babar Lane, Bangali Market, New Delhi.
9. Vinod Kumar Bagga son of T.D.Bagga, resident of B-50 Khanpur Extension De Road, New Delhi.
10. S.K.Khera son of Sh.R.N.Khera, resident of 543/18, S.P.Marg, New Delhi
11. Ansu Kumar Mahta son of Ved Raj Mahta son of Pehlad Chand
12. Smt.Suman Katoch Mahta wife of S.K.Mahta, resident of 403, Shishora Tower Yamuna Nagar Off Link Road Andheri Mumbai West.
13. J.S.Malhotra son of S.Malhotra, resident of 2114, Phase-7, SAS Nagar, Chandigarh.
14. N.A.Verma son of D.A.Verma, resident of P 226, Sector-21, Jalvayu Vihar Noida U.P.
15. O.P.Kukreja son of Yashpal, resident of C/o Shobhna Khatri, 5283, ground floor, G.K.Part-I, New Delhi.

(Reetu Yadav)

ATTESTED

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Faridabad

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16. Manmohan Singh son of Sunder Singh
17. Anril Mohan wife of M.M.Singh, resident of C-MLO Housing Quarter, TRG Command, IAF Harbal Bangalore.
18. Sangeet Sharma son of Dr.S.C.Sharma Airforce Station Bani Camp, Nazabgar, New Delhi.
19. N.S.Ahluwalia son of Maharaj Singh, resident of 66 Sukhdev Vihar, New Delhi.
20. J.S.Maan son of Sher Singh, 36/161, Arjun Vihar, Dhola Kua, New Delhi.
21. S.Ahluwalia son of Maharaj Singh son of Harnam Singh, resident of 66 Sukhdev Vihar, New Delhi.
22. Ravi Kohli son of Sh.D.R.Kohli, resident of 406 Technology Apartment, 24 Patpadganj, Delhi.
23. O.P.Kukreja son of Yashpal son of Pyara Ram, resident of C/o Shobhna Khatri, 5283 G.F. G.K.Part-I, New Delhi.
24. J.S.Malhotra son of Sh.S.S.Malhotra, resident of 2114 Phase-7, SAS Nagar, Chandigarh.
25. Anshu Kumar Manta son of Ved Ram Manta, resident of 403, Shishra Towers, Yamuna Nagar, Off Link Road, Andheri West Mumbai.
26. S.S.Saini son of Fakir Chand Saini, resident of L-88, 25 Jalvayu Vihar Noida.
27. Smt.Dipika wife of M.M.Dutt son of Bishamber Nath, C/o R.K.Manta, B-1, 1618, Basant Kunj, New Delhi.
28. Gianender Kumar Malhotra son of Sh.K.K.Malhotra son of Shiv Narain, R/o SE Airforce Extension Barreley.
29. Shobhan Singh son of Tej Singh, resident of E-30/6, Phase 2 DRDP Complex C B V.Raman Nagar, Bangalore.
30. Neeraj Kumar Singla son of Chaman Lal, resident of A-33, Kailash Colony, New Delhi.
31. A.N.Verma son of C.A.Verma son of Vasadh Ram, resident of 226, Sector-21, Jalvayu Vihar, Noida.
32. Deepak Sikandu son of H.S.Sikandu, resident of E-3 Shastri Nagar, Ajmer.
33. Subhash son of Thau Ram son of Himraj, resident of B-3/248, Paschim Vihar, New Delhi.
34. Man Mohan Singh son of Col.Sunder Singh son of Jagat Singh, resident of CIL.MOH, New Training Command, I.A.F.Bhawan Bangalore.
35. Charanjit Singh son of M.S.Khurana son of H.S.Khurana, resident of C/o R.K.Yadav, C-6/55, Sector-31, Noida, U.P.
36. Vinod Kumar son of T.D.Bagga son of Fateh Chand, resident of C/o Pawan Kumar Khanpur Extension Devli, Delhi.
37. Sangeet Sharma son of Dr.S.S.Sharma, resident of Airforce Station Nazafgarh, Delhi.
38. R.K.Srivastwa son of I.B.Srivastwa, resident of A.D.C.C.H.Q.A.C.I.A.F. Subrota Park, New Delhi.
39. R.P.S.delhi son of Narender Singh, resident of Pasrola Park, New Delhi.

40. Smt.Nirmala Kawaja widow of Satpal Kawaja, resident of A-9, Greater Kailash, New Delhi.
41. S.K.Khera son of R.N.Khera
42. K.C.Khera, resident of 543/18, S.P.Marg, New Delhi.
43. Rajiv Gupta son of Riyu Daman Singh son of Bakhtawar Singh, resident of C-5/27, Safdarjang Double Payment Area, New Delhi.
44. Satinder Singh son of Sewa Singh son of Bhagat Singh, resident of 263 Singals Unit Air Force through 36A 20.
45. Bijender Singh Yadav son of Ganesh Lal son of Budh Ram, resident of District ozgar Adhikari Narnaul Haryana.
46. Kirpal Sing son of Kanoji Lal son of Nand Ram, resident of Education Section Airforce Abadi Madras.
47. Pankul Nag son of Rajender Gopal Nagar, resident of D-11A 21 South Moti Marg, New Delhi.
48. Umesh Gupta son of Ram Gopal Gupta, resident A.D.S.Nawal Unit M.C.C.Lamba line Post Delar.
49. Mathew Jeji son of C.B.George, resident of 20/PKTC Sidharth Extension, New Delhi.
50. J.S.Maun son of Sner Singh son of Bhagat singh, resident of 3b/46, Arjun Vihar Drona Kuan, New Delhi.
51. N.S.Ahluwalia son of Maharaj Singh, resident of 66 Sukhev Vihar, New Delhi.
52. Ravi Kohli son of D.R.Kohli son of Gobind Ram, resident of 406 Technology Apartment Patpadganj, Delhi.
53. O.P.Kukreja son of Yash Singh Kukreja, resident of C/o Shobha Khatri House No.K.S.283, ground floor, Greater Kailash Bhag I, New Delhi.
54. J.S.Malhotra son of Sh.S.S.Malhotra, resident of 2114 Phase-7, SAS Nagar, Chandigarh.
55. Anshu Kumar son of Ved Raj Mahta son of Prehlad, resident of 403, Sishi Towers, Yamuna Nagar, Off Link Road, Andheri West Mumbai.
56. S.S.Saini son of Fakir Chand Saini son of Sohan Lal, resident of L-80, Sector-25, Jalvayu Vihar, Noida, U.P.
57. Smt.Dipika wife of M.M.Dutt, resident of C/o R.K.Manta, B-1, Basant Kunj, New Delhi.
58. Gianender Kumar Malhotra son of Sh.K.K.Malhotra, r/o S.G. (4) Airforce Station Barrelli.
59. Soman Singh Dyoda son of Tej Singh Dayoda, resident of 30.6, Phase 2 DRID Complex C.P.Raman Nagar, Bangolore.
60. Neeraj Kumar Singla son of Chaman Lal, resident of A-33, Kailash Colony, New Delhi.
61. P.K.Dass Verma son of R.N.Dass, resident of C/o M.MK.Sindhi Flat No.1154, Pocket Exanster A Basant Kunj, Delhi.
62. Kuldeep Roy son of Dr.S.C.Aggarwal son of S.M.Aggarwal, resident of A HQ West Block 6 R.K.Puram, New Delhi.

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63. Anil Pandey son of T.N.Pandey son of M.R.Pandey, resident of B-66 Yashpal Tilak Nagar, Jaipur.
64. Sunil Kumar son of Narender Nath Kohli son of Sardari Lal Kohli, resident of C/o Satish Mehta IInd Pocket 7 Flat No.7244 Basant Kunj, New Delhi.
65. Rajender Kumar son of Kundan Lal Arora son of Bodha Ram, resident of BX 1038 Faridkot Road, Kotak Pura, District Faridkot Punjab.
66. Parmod Kumar Tayal son of Bashamber Sahai son of Bhagat Singh, resident of ASI C/o ADFC V Ram Nagar, Bangalore.
67. Jasvinder Chauhan son of Ajmer Singh Chauhan, resident of O.To A O.C.N.C. HQ I.A.L.SWAG, Jodhpur, 432-II.
68. Rajiv Gode son of A.K.Gode son of R.K.Gode, resident of C/o Navdeep Nakara, 6/44 Old Rajender Nagar, New Delhi.
69. Tajender Singh son of Rathore son of Thakur D.S.Rathore, resident of C-43, Hole House Lajpat C.Skeen Rajasthan.
70. Joseph Seeras son of Krishnai Pin Joseph, resident of 3 S.F. C/o 56 ADO.
71. Sudhir Saxena son of R.M.Saxena son of G.R.Saxena, resident of C/o O.S.Soothar Room No.111D.M.O.D. South Block, New Delhi.
72. Rajender Kumar Bansal son of M Bansal son of Shri Ram, resident of A 117, Sector-21, Noida, U.P.
73. S.N.Ahluwalia son of Maharaj Singh son of Harnam Singh, resident of 66 Sukhdev Vihar, New Delhi 25.
74. R.P.S.Dhilo son of Major General Narender Singh son of Surat Singh, resident of 11 Subrothoi Park, New Delhi.
75. Subhash Chand son of Thau Ram son of Hem Raj, resident of B-3/248, Paschim Vihar, New Delhi.
76. Charanjit Singh son of A.S.Khuraja son of H.S.Khurana, resident of C/o R.K.Yadav C-6 55, Sector-31, Noida U.P.
77. Smt.Nirmala Kawatri wd/o Satpal Kuwatro.
78. Manoj Kawashi son of Satpal Kawashi, resident of A-9, G.K.Enclave II, New Delhi.
79. Ravi Kohli son of Sh.D.R.Kohli son of Gobind Ram.
80. Smt.manju Kohli wife of Ravi Kohli son of D.R.Kohli, resident of 406, Technology Apartment 24, Patpadganj, Delhi.
81. R.K.Sriwastwa son of I.B.Sriwastwa son of R.P.Sriwastwa, resident of I ADCOOOHQHACIAF Sumrato Park, New Delhi.
82. Ram Parkash Kapoor son of Luxmi Narain Kapoor son of J.N.Kapoor, resident of 3125, Sector-27D, Chandigarh.

ATTESTED

.....Defendants

Subordinate Court
Fardabad

915/114

SUIT FOR DECLARATION WITH CONSEQUENTIAL RELIEF OF POSSESSION

Claim It is, therefore, prayed that a decree for declaration to the effect that plaintiff is owner in possession of the land comprised in Para No.1 of the plaint and that the alleged sale deed dated 2.7.89 is false, fictitious and forged document and conveys no title to the parties in respect of the said land, be passed in favour of the plaintiff and against the defendant alongwith costs of the suit.

By way of consequential relief a decree for possession in respect the land comprised in Para No.1 of the plaint be also passed in favour of the plaintiff and against the defendant alongwith costs of the suit.

Plaint presented on : 1.11.2007/20.4.2013

This suit is coming on 20th April 2013 for final disposal to me (Ms Reetu Yadav, HCS, Civil Judge (Jr. Divn), Faridabad) in the presence of Sh.S.C.Mahna, Advocate for plaintiff. Sh.Sandeep Gosain Advocate for defendant No.1., Sh.Vineet Bajaj Advocate for defendants No.2 and 3., Sh.L.N.Parashar Advocate for defendants No.5 to 7 and 9 to 82., Defendant No.4 exparte vide order dated 16.8.2010., Defendant No.8 exparte vide order dated 30.8.2012.

Order

It is ordered that the suit of plaintiff fails and is hereby dismissed. Parties are left to bear their own costs.

COST OF THE SUIT

	<u>PLAINTIFF</u>	<u>DEFENDANT</u>
1. Stamp for plaint :	Rs. 120.00	Rs. 00.00
2. Stamp for power :	Rs. 02.00	Rs. 18.00
3. Stamp for exhibits :	Rs. 00.00	Rs. 00.00
4. Pleadings fees :	Rs. 00.00	Rs. 00.00
5. Subsistence of witnesses	Rs. 00.00	Rs. 00.00
6. Process fee Misc fees.	Rs. 70.00	Rs. 60.00
Total:	Rs. 192.00	Rs. 78.00

Given under my hand and seal of this court on 5th day of May 2014.

CERTIFIED TO BE TRUE COPY

Authorised Officer / Ex-16, of the Indian Evidence Act

9/5/14

(Reetu Yadav)
Civil Judge (Jr.Divn.)
Faridabad.5.5.2014.