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S.A. No.2149/2025

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

SECOND APPEAL No. 2149 of 2025

LAKSHMAN SINGH THROUGH LEGAL HEIRS

Versus

MANOJ AND ANOTHER.

Appearance:

Shri A.K. Sethi – Senior Advocate assisted by Shri

Harish Joshi – Advocate for the appellants/defendants.

Reserved on : 24/09/2025

Delivered on : 09/10/2025

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J U D G M E N T

Heard on the question of admission.

This second appeal under Section 100 of CPC has been filed by the appellants/defendants being aggrieved by the judgment and decree dated 25/07/2025 passed by Ist District Judge, Dhar, District-Dhar (M.P.) in RCA No.30/2023 filed by respondent/plaintiff whereby the judgment and decree dated 29/04/2023 passed by IInd Additional Civil Judge, Senior Division, Dhar, District-Dhar (M.P.) in RCSA No.1200067/2016, was set-aside.

Facts of the case, in short are as under :-

2. That on 08/09/2016, the respondent No.1/plaintiff (Manoj S/o Ramdev Singh) had preferred a Civil Suit No.67-A/2016 seeking the relief of specific performance of Contract and permanent injunction before the learned Trial Court in respect to land admeasuring 0.368 hectare forming part of survey No.1013/1/2 and also land admeasuring 1.494 hectare forming part of survey No.1027/1 situated at Village-Tirla, Tehsil & District-Dhar (M.P.).



3. That it was stated in the plaint by the respondent No.1/plaintiff that original defendant (Lakshman Singh S/o Inder Singh) had entered into an agreement to sale dated 23/12/2014 with him with respect to land admeasuring 0.368 hectare forming part of survey No.1013/1/2 and also land admeasuring 1.494 hectare forming part of survey No.1027/1 situated at Village-Tirla, Tehsil & District-Dhar (M.P.) (Herein after referred as the suit property) for a total consideration of Rs.40,11,000/- It was further stated in the plaint that after receiving cash consideration of Rs.40,11,000/- on 23/12/2014 original defendant (Lakshman Singh. S/o. Inder Singh) had allegedly executed Sale Agreement (Ex.P/11) in favor of the respondent No.1/plaintiff. It is further alleged in the plaint that the cash consideration was paid on different dates and the alleged agreement was executed in presence of witness Pradeep Bafna (PW/3) and Ravi Ninama.

4. That the original defendant (Lakshman Singh S/o. Inder Singh) appeared before trial court on receiving the Notice of the case and contested the claim of the respondent No.1/plaintiff and by submitted written statement he had



denied each and every allegation leveled in the plaint i.e. the execution of Sale Agreement (Ex. P/11), specific averments of receiving sale consideration was also denied. The fact as pleaded in the plaint with regard to receiving of cash consideration of Rs.40,11,000/- was also specifically denied. The original defendant No.1 had alleged that the Sale Agreement (Ex. P/11) was completely forged and fabricated document.

5. The Trial Court after framing Nine issues came to the conclusion that issues No.1, 4 and 7 were proved. The Trial Court analyzed the evidence and dismissed the suit vide its judgment and decree dated 29/04/2023. Against which the respondent No.1/plaintiff had preferred a First Appeal before Ist Additional, District Judge, Dhar District-Dhar, (M.P.), which was registered as RCA No.30/2023. The appellants/defendants had also preferred the Cross Objections with respect to Issue No.1 and 7.

6. The learned First Appellate Court allowing the First Appeal preferred by the respondent No.1/plaintiff observed that specific performance of the agreement of sale dated 23/12/2014 to be executed in respect of sale of land survey



No.1013/1/2 admeasuring 0.368 hectare and survey No.1027/1 admeasuring 1.494 hectare situated in village Tirla, Tehsil & District-Dhar in the favour of respondent No.1/plaintiff and a registered sale-deed was to be executed in his favour and thereafter possession of said disputed land to be delivered to the respondent No.1/plaintiff. Also a permanent injunction was issued that appellants/defendants should not transfer or encumber the disputed land either himself or through anyone else.

7. Being aggrieved by which, the appellants/defendants preferred the present second appeal proposing the following substantial questions of law :-

“(1) Whether the First Appellate Court was justified in reversing the Judgment & Decree of the learned Trial Court?

(2) Whether the learned first appellate court had committed grave error of law in arbitrarily coming to conclusion and giving a perverse finding that plaintiff was ever ready and willing to perform his part of the contract which is against the documentary and oral evidence?

(3) Whether the First Appellate court was justified in holding the agreement to sale



(P/11) to be valid which was sham, bogus, forged and never acted upon and whereupon the relief of specific performance could never be granted?

(4) Whether the First Appellate Court was justified in presuming the due execution of valid sale agreement (Exhibit P/11) especially when it lacks essential details such as boundaries, identification of property, map signed by both the parties?

(5) Whether the First Appellate Court had erred in law in misinterpreting the evidence and applying its discretion: incorrectly to decree the suit for specific performance contrary to the scheme of section 20 of the specific relief act?

(6) Whether the sale Agreement was uncertain, vague and could not be given effect to when subject matter of sale was not the entire land but a part of land which was not described by demonstrating boundaries or map attached thereto?

(7) Whether the First Appellate Court had erred in misinterpreting the alleged receipts of sub registrar (P/7) and (P/9) and presuming them as a proof of being present without examining its maker and thereby reversing the findings of the trial court with regard to readiness and willingness?

(8) Whether the First Appellate Court was



justified in reversing the finding of readiness and willingness by not considering the paper cutting exhibit D/3 and D/4 in consonance with cross examination para no. 34 and 36 of the plaintiff which seriously disputes the financial capacity and competence to purchase the suit property and availability/arrangement of cash for payment of consideration?

(9) Whether the first appellate court had justified in not considering the conduct of the Plaintiff who could not demonstrate payment of entire consideration in cash and further in not holding the sale agreement P/11 against the public policy and void?

(10) Whether the first appellate court had justified in e the decree of specific performance when the first appeal court itself doubted payment of cash consideration in para no. 34 of judgment?

(11) Whether the First Appellate Court was justified in not deciding the cross objection preferred at the instance of the Appellants?"

8. The counsel for the appellant/defendant pleads, that respondent No.1/the original plaintiff failed to prove the existence of a valid agreement, which was a condition precedent for seeking specific performance and that the learned First Appellate Court therefore erred in reversing



the trial courts judgement. The counsel points out that the plaint did not comply with Order VII Rule 3 CPC because the agreement itself (Ex. P/11) was vague and failed to identify the suit property as there were no boundaries, no dates of payment and no map signed by the parties were annexed.

9. The learned Senior counsel Shri A.K. Sethi for the appellants/defendants contended that the respondent/plaintiff did not prove his readiness and willingness to perform the contract or the payment of the sale consideration and that the learned First Appellate Court wrongly overlooked these findings. It is submitted that payment in cash of a such large amount was not supported by cogent documentary evidence such as income-tax returns, audited accounts or other financial records and the learned First Appellate Court should have drawn an adverse inference. Further, the stamp paper for Ex.P/11 was not shown to have been purchased by the original defendant and the person who purchased it did not depose, which again warranted an adverse inference against the plaintiff.

10. The learned Senior counsel for the



appellants/defendants submits that the agreement was never acted upon as required by its own conditions as no public notice was published and no registered agreement to sell was executed. The plaintiff delayed taking any effective step as he did not take possession or proceed to register the sale-deed and explanations for the delay were not satisfactory and receipts Ex.P/7 and P/9 were not proved by their makers and so presence at the Sub Registrar's Office could not be presumed. The learned Senior counsel also referred to the handwriting Expert Report (PW/2) which was prepared from photocopies and paid for by the plaintiff, and PW/3 (Pradeep Bafna) whose name appears in newspaper cuttings (Ex.D/3 and D/4) which raise serious doubts about fabrication of Ex.P/11.

11. The learned Senior counsel for the appellants contends that the respondent/plaintiff has not explained how documents like Bhoo Adhikar Rin Pustika (Exhibit P/11-A) came into his possession whereas the defence witness (DW/1 Shailendra) deposed that the original was deposited with the patwari and a new Bhoo Adhikar Rin Pustika was issued. The learned Senior counsel argues that the learned First Appellate Court misread and ignored DW/1's



explanation and wrongly presumed genuineness of the sale agreement and plaintiff's readiness to perform. The plaintiff's own admission in cross-examination (para 36) that an earlier suit for specific performance was dismissed further undermines his credibility and should have weighed against him.

12. The learned Senior counsel for the appellants further urges that for all these reasons the learned First Appellate Court committed grave legal error and failed to require certainty in the terms of the contract and also ignored the mandatory need to identify the suit land, which did not draw adverse inferences from missing or contradictory evidence (Ex.D/3, Ex.D/4, Ex.P/7, Ex.P/9) and accepted expert evidence produced on photocopies and misapplied precedent (including reliance on **Shyam Kumar Inani v. Vinod Agarwal** which the appellant says is factually distinguishable). The appellants. Therefore, prayed that the reversal finding by the learned First Appellate Court to be set-aside and that the Trial Court's judgment and decree to be restored and the cross-objections of the appellants/defendants be properly decided.



13. Apart from the grounds already stated no other contentions were raised by the appellants/defendants.

Analysis and conclusion :-

14. Heard learned counsel for appellants/defendants at length and perused the entire records.

15. Consequently, for the resolution of the dispute in this appeal, the central issue to be answered is ***Whether the learned First Appellate Court was justified in presuming the due execution of valid sale-agreement (Exhibit P/11) ?***

To appreciate the issue raised, it is evident from the record that the sale agreement in question was duly executed between the parties in the presence of witnesses and properly notarized. The learned First Appellate Court rightly observed that the evidence of the respondent/plaintiff Manoj (PW/1), Pradeep Bafna (PW/3), and notary Aslam Khan (PW/4) consistently established that the impugned sale agreement (Exhibit P-11) was executed on 23/12/2014 having the signature of appellant/defendant No.1 (Lakshman Singh). The contract was signed in the presence of attesting witnesses and



properly notarized and also supported by the delivery of the Bhoo Adhikar Rin Pustika (Exhibit P-11-A) at the time of execution sale agreement. The testimonies of these witnesses remained unrebutted in cross-examination and no credible evidence was advanced to dispute that how the Bhoo Adhikar Rin Pustika came into the respondent's/plaintiff's possession.

16. This Court is of the considered opinion that although specific dates of payment of the sale consideration of Rs.40,11,000/- were not mentioned in the plaint or in Exhibit P-11 the agreement clearly records that the entire amount was received in instalments prior to its execution. The omission of precise dates raises some doubt but does not negate the probative value of the signatures of appellant/defendant No.1 on Exhibit P-11 or the undisputed possession of the Bhoo Adhikar Rin Pustika by the respondent/plaintiff. The burden thus shifted to the appellants/defendants to prove that the contract was forged or fabricated, which they failed to prove.

17. Moreover, the plaintiff witness, Ms. Yogita Singh (PW-2), who was examined as a Handwriting Expert,



categorically stated that upon comparison and detailed examination of the admitted signatures of the appellants/defendants (Lakshman Singh) with the disputed signatures appearing on the sale agreement (Ex. P-11), she found them to be identical in all material particulars. She further deposed that the signature on Ex.P-11 is that of appellant/defendant-Lakshman Singh and confirmed her expert opinion through her report (Ex.P/17) placed on record. Her testimony clearly establishes that the sale agreement (Ex.P-11) bears the genuine signature of the appellant/defendant-Lakshman Singh thereby proving that the said agreement was duly executed by him.

18. In the light of the above discussion Hon'ble Apex Court in the case of **Chennadi Jalapathi Reddy v. Baddam Pratapa Reddy, (2019) 14 SCC 220 : (2020) 1 SCC (Civil) 514** observed the evidentiary value of the handwriting expert, which is as follows : -

10. By now, it is well settled that the court must be cautious while evaluating expert evidence, which is a weak type of evidence and not substantive in nature. It is also settled that it may not be safe to solely rely upon such evidence, and the court may seek independent



*and reliable corroboration in the facts of a given case. Generally, mere expert evidence as to a fact is not regarded as conclusive proof of it. In this respect, reference may be made to a long line of precedents that includes **Ram Chandra v. State of U.P.** [**Ram Chandra v. State of U.P.**, AIR 1957 SC 381 : 1957 Cri LJ 559], **Shashi Kumar Banerjee v. Subodh Kumar Banerjee** [**Shashi Kumar Banerjee v. Subodh Kumar Banerjee**, AIR 1964 SC 529], **Magan Bihari Lal v. State of Punjab** [**Magan Bihari Lal v. State of Punjab**, (1977) 2 SCC 210 : 1977 SCC (Cri) 313] and **S. Gopal Reddy v. State of A.P.** [**S. Gopal Reddy v. State of A.P.**, (1996) 4 SCC 596 : 1996 SCC (Cri) 792]*

12. On the other hand, in **Murari Lal v. State of M.P.** [**Murari Lal v. State of M.P.**, (1980) 1 SCC 704 : 1980 SCC (Cri) 330], this Court emphasised that reliance on expert testimony cannot be precluded merely because it is not corroborated by independent evidence, though the Court must still approach such evidence with caution and determine its creditworthiness after considering all other relevant evidence. After examining the decisions referred to supra, the Court was of the opinion that these decisions merely laid down a rule of caution, and there is no legal rule that mandates corroboration of the opinion evidence of a handwriting expert. At the same time, the Court noted that Section 46 of the Evidence Act, 1872 (hereinafter “the



*Evidence Act”) expressly makes opinion evidence open to challenge on facts. In **Alamgir v. State (NCT of Delhi) [Alamgir v. State (NCT of Delhi), (2003) 1 SCC 21 : 2003 SCC (Cri) 165]** , without referring to Section 46 of the Evidence Act, this Court reiterated the observations in **Murari Lal [Murari Lal v. State of M.P., (1980) 1 SCC 704 : 1980 SCC (Cri) 330]** and stressed that the court must exercise due care and caution while determining the creditworthiness of expert evidence.*

13. *In our considered opinion, the decisions in **Murari Lal [Murari Lal v. State of M.P., (1980) 1 SCC 704 : 1980 SCC (Cri) 330]** and **Alamgir [Alamgir v. State (NCT of Delhi), (2003) 1 SCC 21 : 2003 SCC (Cri) 165]** strengthen the proposition that it is the duty of the court to approach opinion evidence cautiously while determining its reliability and that the court may seek independent corroboration of such evidence as a general rule of prudence. Clearly, these observations in **Murari Lal [Murari Lal v. State of M.P., (1980) 1 SCC 704 : 1980 SCC (Cri) 330]** and **Alamgir [Alamgir v. State (NCT of Delhi), (2003) 1 SCC 21 : 2003 SCC (Cri) 165]** do not go against the proposition stated in **Shashi Kumar Banerjee [Shashi Kumar Banerjee v. Subodh Kumar Banerjee, AIR 1964 SC 529]** that the evidence of a handwriting expert should rarely be given precedence over substantive evidence.”*



19. Accordingly, in view of the foregoing discussion, this Court is of the considered opinion that the testimony of the Handwriting Expert, Ms. Yogita Singh (PW/2), carries significant evidentiary value. In her expert opinion, she has categorically stated that the signature appearing on the impugned sale agreement is that of appellant/defendant-Lakshman Singh. Her findings were based on a detailed scientific examination of the admitted and disputed signatures and the report furnished by her was duly exhibited and proved as Ex.P/17, in accordance with law. This Court further considers that the opinion of the Handwriting Expert did not stand in isolation but was amply corroborated by the testimonies of plaintiff witness Pradeep Bhafna (PW/3) and the notary officer Aslam Khan (PW/4). Notably Pradeep Bafna (PW/3), being a witness to the transaction affirmed the execution of the impugned sale agreement in the presence of the parties concerned. Similarly, Aslam Khan (PW/4) the Notary who attested the document, unequivocally supported the genuineness of the signature of Lakshman Singh and confirmed that the same was signed in his presence at the time of attestation. It is therefore, held that the Expert opinion of Yogita Singh - PW/2, when read conjointly with the testimonies of PW/3



and PW/4, establishes a consistent and reliable chain of evidence affirming the authenticity of the signature on the sale agreement. The corroborative nature of their statements fulfils the evidentiary mandate laid down by the Hon'ble Supreme Court in various pronouncements herein above relied upon, which emphasize that expert opinion, though advisory in nature, attains probative value when supported by independent and credible corroborative evidence. In light of these circumstances, this Court finds no reason to disbelieve the expert testimony and the same is accepted as trustworthy and in conformity with the settled principles of law.

20. Further, it is rightly observed by the appellate court that the testimony of appellant/defendant No.1 Shailendra Singh, was found inconsistent, as he initially denied execution of the contract but, in cross-examination, admitted lack of knowledge regarding his father's signatures. In applying the principle of burden of proof based on a preponderance of probabilities, the appellate court held that the appellant respondent/plaintiff discharged his burden of proof by producing the sale agreement, Exhibit P-11, supported by witness testimony and expert



opinion. The omission of specific dates of consideration did not outweigh the circumstances establishing the validity of the transaction. Reliance on contrary precedents cited by the appellant/defendant was rejected, as the facts of those cases were distinguishable from the present matter.

21. In this context, Hon'ble Apex Court in the case of **S. Kaladevi v. V.R. Somasundaram, (2010) 5 SCC 401 : (2010) 2 SCC (Civ) 424 : 2010 SCC OnLine SC 460** held that :-

“An unregistered sale deed of an immovable property of the value of Rs 100 and more could be admitted in evidence as evidence of a contract in a suit for specific performance of the contract. Such an unregistered sale deed can also be admitted in evidence as evidence of any collateral transaction not required to be effected by registered document. When an unregistered sale deed is tendered in evidence, not as evidence of a completed sale, but as proof of an oral agreement of sale, the deed can be received in evidence making an endorsement that it is received only as evidence of an oral agreement of sale under the proviso to Section 49 of the 1908 Act.”

22. With regard to the question that the said sale agreement was executed through fraud. This is the mandate



of Order VI Rule 4 of the CPC as enumerated in the case of **Ramesh B. Desai v. Bipin Vadilal Mehta (AIR 2006 SC 3672) and Chief Engineer, M.S.E.B. v. Suresh Raghunath Bhokare (2005) 10 SCC 465** where it was held that it is a fundamental principle that a person alleging fraud must both plead and prove it and must give specific particulars of the alleged fraud. In the case of **Shanti Budhiya Vesta Patel v. Nirmala Jayprakash Tiwari (AIR 2010 SC 2132) and Saradamani Kandappan v. Rajalakshmi (2011) 12 SCC 18** it was held that in absence of any pleading made in the plaint as to how a fraud was committed and when it was committed. The stand taken as a document/instrument to be fabricated or fraud, the pleadings to that effect and its commission has to be substantiated and in absence of the same mere bald averments cannot be considered.

23. Further, as it is alleged by the appellants/defendants that the respondent/plaintiff did not specify the dates of payment of such consideration money. In this context it is also important to note that in civil cases, the principle of proof beyond a reasonable doubt does not apply, rather, the plaintiff's burden of proving facts lies on the basis of a



preponderance of probabilities. In this regard, the judgment in **Government of Goa v. Maria Juliet D'Souza 2024 (3) SCC 523** is noteworthy. Thus, this Court is of the opinion that mere omission of specific dates regarding consideration, while potentially giving rise to subtle doubts but does not disprove the circumstances arising from appellant/defendant No.1's signature on the document and the respondent's/plaintiff's possession of the Bhoo Adhikar Rin Pustika. It is also important to note that while facts like the above-mentioned doubt affect the level of proof in criminal cases but in civil cases, mere doubt does not disprove the credibility of the facts proved unless the probability of such facts is eliminated.

24. Accordingly, this Court does not found any error in the learned First Appellate Court findings that the agreement to sale dated 23/12/2014 Exhibit P-11 was duly executed by appellant/defendant No.1 and constituted a valid and certified contract for the sale of the disputed land in favour of the respondent/plaintiff.

25. Thus, in view of the aforesaid discussion and upon due consideration of material available on record and



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considering the law laid down by the Hon'ble Apex Court, this Court does not find any illegality in the judgment and decree of the learned First Appellate Court dismissing the appeal of the appellants/defendants.

26. Resultantly in absence of any substantial question of law, this Second Appeal fails and is hereby **dismissed**.

27. Pending applications, if any, shall also stands disposed off accordingly.

(Jai Kumar Pillai)
Judge

Aiyer*
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