2025 INSC 1214

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2025
(ARISING OUT OF SLP(C) NO. 26593 OF 2025)

PREM AGGARWAL **...APPELLANT(S)**

Versus

MOHAN SINGH & ORS. **...RESPONDENT(S)**

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.

2. Some litigants, it seems, cannot take yes for an answer. After this Court on 1st April, 2025 set aside the decree but moulded equitable relief by directing payment of ₹2,00,00,000/- (Rupees Two Crores), a sum 800 (eight hundred) times the ₹25,000/- (Rupees Twenty Five Thousand only) paid as earnest money in 1989, the appellant refused the tender, obstructed execution, and has returned to this Court in an effort to delay the inevitable. This appeal is a cautionary tale about how the pursuit of a windfall can turn the process of law against those who seek to exploit it, in order to retain possession while spurning an extraordinary monetary award. The appellant has shot himself in the foot and in the same breath dug his own grave. Equity will not allow unjust enrichment. The process of execution exists to give effect to

judgments and not to underwrite windfalls. A party that has received such compensation must yield possession.

3. This appeal assails the correctness of the judgment and order dated 11.09.2025 passed by the High Court of Punjab & Haryana at Chandigarh in Civil Revision No. 5810 of 2025, titled 'Prem Aggarwal through her GPA Holder vs. Mohan Singh and others', whereby the said revision assailing the correctness of the order dated 07.08.2025 as well as order dated 12.08.2025 passed by the Civil Judge (Junior Division), Chandigarh (for short, "Executing Court") directing for issue of warrant of possession and rejecting the objections/application of the appellant, was dismissed.

4. The facts giving rise to the present appeal in brief are as follows. Appellant hereinafter is referred to as the plaintiff and the respondents as defendants for the initial part of the order.

   i) An agreement to sell dated 12.06.1989 was executed by the defendants whereby they agreed to sell the suit property for a total sale consideration of Rs. 14,50,000/- in favour of the plaintiff. At the time of execution of the agreement to sell, an advance amount of Rs. 25,000/- was paid as earnest money. The suit property consisted of two floors. On the first floor there were two tenants. The ground floor was vacant. Its possession was given to the plaintiff pursuant to the agreement. In February 1990, the plaintiff instituted Civil Suit No. 44 of 1990 for a simple relief of permanent injunction to restrain the defendants from alienating or dispossessing them from the suit

property. The plaintiff apprehended that the defendants intended to resell the suit property as an advertisement had been issued by them on 07.01.1990 in daily newspaper 'The Tribune'. The said suit for permanent injunction was dismissed as withdrawn by the Trial Court on 15.06.1990 and attained finality.

ii) The plaintiff thereafter instituted another suit bearing Civil Suit No. 55 of 1990 in June 1990 seeking a decree of specific performance of the agreement to sell dated 12.06.1989. The said suit was decreed by the Trial Court, *vide* judgment and order dated 11.12.2009. Against the said order, the first appeal preferred by the defendants was dismissed on 19.09.2013. The second appeal before the High Court was also dismissed, *vide* judgment and order dated 13.05.2022. A review petition by the defendants also received the same fate and was dismissed on 19.08.2022. High Court although dealt with the issue of Order II rule 2 Code of Civil Procedure, 1908[1] but fell in error as it ignored the fact that the suit for injunction and the suit for specific performance were based on the same cause of action, i.e., the advertisement for sale published on 07.01.1990 in daily newspaper 'The Tribune'. High Court proceeded on the premise that at the time of filing suit for injunction only dispossession was threatened and there was no intention to not execute the sale deed pursuant to the agreement to sell.

[1] For short, "CPC"

iii) The defendants assailed the aforesaid judgments before this Court by way of Civil Appeal Nos. 4647-4648 of 2025, titled 'Mohan Singh & Ors. Vs. Prem Aggarwal'.

iv) This Court, *vide* judgment and order dated 01.04.2025, allowed the appeals and after setting aside the impugned orders therein dismissed the suit, primarily on the finding that the suit was barred under Order II Rule 2 of the CPC. However, in the facts and circumstances of the case, this Court awarded an amount of Rupees Two Crores to be paid by the defendants to the plaintiff within three months in lieu of the earnest money of Rs.25,000/- that was paid in the year 1989.

5. It appears that the defendants tried to make the payment to the plaintiff but they declined to accept the same and as such execution proceedings were initiated in which the defendants deposited the amount of Rupees Two Crores by way of Fixed Deposits in the name of the plaintiff. The Executing Court directed the plaintiffs to accept the amount and hand over the possession but when it did not happen, the defendants applied for issuance of warrants of possession.

6. The Executing Court in its order dated 07.08.2025 noted that the amount of Rupees Two Crores had been furnished by way of Fixed Deposit in the name of the plaintiff. But since the plaintiff had not received them, the Executing Court directed that the original Fixed Deposit be returned, and fresh Fixed Deposit be furnished in the name of the Court. It further directed for issuance of warrant of possession on 07.08.2025 and fixed 12.08.2025 as the next date. The warrants were

issued on 08.08.2025. When the matter was next taken up on 12.08.2025, the Court was apprised by the Bailiff that the police assistance was required as there was resistance at the time of the execution of warrants of possession.

7. Further on 12.08.2025, the plaintiff filed objections/application to recall the warrant of possession to which the defendants sought time to file response on the same day. The matter was directed to be taken up post lunch. Post lunch after hearing the counsel for the parties, the Executing Court rejected the application/objections of the plaintiff and further directed for police assistance to be rendered by the concerned SHO. The Executing Court further granted 4 days' time to the plaintiff to receive the amount, and the warrant of possession were to be executed only after 4 days in case the plaintiff would not receive the amount and hand over possession. Aggrieved by the aforesaid two orders i.e., 07.08.2025 and 12.08.2025, the plaintiff preferred Civil Revision before the High Court which has since been dismissed by the impugned judgment and order dated 11.09.2025.

8. We have heard Mr. Siddharth Bhatnagar, learned senior counsel for the plaintiff-appellant and Mr. Aditya Dassaur, learned counsel appearing for the defendants-respondents appearing on caveat. Hereinafter the plaintiff would be referred to as the appellant and the defendants as the respondents.

9. We have no hesitation in recording at the outset that the appellant has been unnecessarily delaying and causing obstruction in the execution of the decree. We also record that

there is no default on the part of the defendants in complying with the direction of this Court to pay the amount of Rupees Two Crores to the appellant. The amount was to be paid within three months, which was duly tendered by way of Fixed Deposits along with the application for execution filed on 26.06.2025 within period of 3 months granted by this Court, *vide* judgment dated 01.04.2025.

10. Once this Court found that the suit for specific performance was liable to be dismissed it was at the discretion of this Court whether or not to direct for refund of the earnest money and if yes then at what rate of interest it should be awarded. Normally it would be a reasonable rate of interest. If it was increased to 18%, 24% or 36% still the amount of interest would be abysmally low as compared to what this Court awarded. Table below will show the amount of interest component at different rates of interest:-

    1. $\frac{25000 \times 9 \times 36}{100}$ = 81,000/-

    2. $\frac{25000 \times 18 \times 36}{100}$ = 1,62,000/-

    3. $\frac{25000 \times 24 \times 36}{100}$ = 2,16,000/-

    4. $\frac{25000 \times 36 \times 36}{100}$ = 3,24,000/-

What has been awarded by the judgment and order dated 01.04.2025 is a whopping amount of Rs. 2,00,00,000/- (Rs. Two Crores only) as against the earnest money of Rs. 25,000/- (Rs. Twenty five thousand only). Merely because the fact of possession was not pointed out at the time of hearing, the appellant as an unscrupulous litigant has been resisting the delivery of possession and has dragged the respondents up to this Court.

This Court had awarded the amount of Rs. 2,00,00,000/- (Rs. Two Crores only) to the appellant to ensure that the suit property of the respondents continues with them and at the same time balance the equities between the parties. The appellant who had won from three Courts and a period of 36 years had passed since the time of execution of the agreement is suitably compensated. The appellant was neither a tenant nor a licencee or lessee on the ground floor of the suit property. He had been inducted only because of the agreement to sell. Once it has been held that no relief can be granted for specific performance and an extraordinary amount has been awarded to compensate the meagre amount of advance is only to adjust the equities. Appellant cannot have any right to resist possession and should not have obstructed or resisted the delivery of possession.

11. The appellant has no *locus* or justification to hold on to the possession for the additional following reasons:

i) His suit for permanent injunction based upon his possession pursuant to the agreement to sell had been dismissed on 15th June, 1990 and had attained finality.

ii) Apparently, it was not pointed out at the time of the hearing of the Civil Appeal Nos. 4647-4648 of 2025 that the appellant was continuing in possession otherwise at that very stage this aspect would have been clarified and specific direction would have been issued that the amount of Rupees Two Crores was being paid by the respondents to the appellant not only in lieu of earnest money but also that the appellant would be required to hand over possession to the respondents.

12. Mr. Siddharth Bhatnagar, learned senior counsel has sought to argue that the appellant would be entitled to benefit of Section 53-A of the Transfer of Property Act, 1882 and being in possession of the suit property, she was entitled to continue till there was a decree of eviction. The respondents having failed to claim possession before this Court, therefore, now the only recourse open to them is to file a suit for possession. He has placed reliance upon a judgment of this Court in the case of ***Shrimant Shamrao Suryavanshi and another vs. Pralhad Bhairoba Suryavanshi (dead) by LRS. And others***[2].

13. The submission advanced by Mr. Bhatnagar does not merit consideration as the very claim of possession was based on the agreement to sell and the suit for specific performance having

[2] (2002) 3 SCC 676

been dismissed by this Court with an exorbitant amount of compensation being awarded to suitably compensate him, he cannot enjoy the possession and at the same time receive the amount of Rupees Two Crores as against an advance amount of Rupees Twenty Five Thousand Only. The appellant had lost in the suit for permanent injunction and now having lost in the suit for specific performance of contract cannot claim to hold on to the possession or insist that the defendants should file a separate suit for possession. The compensation of Rupees Two Crores was awarded only to bring an end to the litigation and put a quietus.

14. The facts in the case of ***Shrimant Shamrao Suryavanshi*** (supra) were quite different and distinct and do not in any way help the plaintiffs. The plaintiff wants to take undue advantage of an omission in the judgment dated 01.04.2025, wherein this Court did not clarify that possession would be handed over to the respondent upon receipt of the amount awarded.

15. The maxim '*actus curiae neminem gravabit*', which means that the act of the Court shall prejudice no one, is a principle firmly embedded in our jurisprudence. It is founded on the equitable notion that no party should suffer owing to an error, delay, or inadvertence attributable to the Court itself. The Court, acting as in appendage of justice, cannot permit its own procedure or inadvertent lapse to occasion injustice. Accordingly, where a party has been disadvantaged by reason of an act of the Court, it is incumbent upon the Court to undo such prejudice and restore the party to the position he would have occupied but for such act. This Court long back in the decision of three-

Judges in ***Jang Singh v. Brij Lal***[3], quoted the maxim with approval and held that: -

> **"6. . . . It is no doubt true that a litigant must be vigilant and take care but where a litigant goes to Court and asks for the assistance of the Court so that his obligations under a decree might be fulfilled by him strictly, it is incumbent on the Court, if it does not leave the litigant to his own devices, to ensure that the correct information is furnished. If the Court in supplying the information makes a mistake the responsibility of the litigant, though it does not altogether cease, is at least shared by the Court. If the litigant acts on the faith of that information the Courts cannot hold him responsible for a mistake which it itself caused. There is no higher principle for the guidance of the Court than the one that no act of Courts should harm a litigant, and it is the bounden duty of Courts to see that if a person is harmed by a mistake of the Court he should be restored to the position he would have occupied but for that mistake. This is aptly summed up in the maxim:**
> **"Actus curiae neminem gravabit"."**
>
> **(emphasis supplied)**

The maxim thus operates as a constant reminder that the Court's authority must be exercised not to the disadvantage of litigants, but in furtherance of justice. After all, to err is human, and when an inadvertent omission is brought to the Court's attention, it becomes the Court's solemn duty to ensure that no party suffers on account of such mistake. In such circumstances, the Court is obliged to restore the party to the very position he would have occupied had the error not occurred.

16. We are thus satisfied that the Executing Court and the High Court have taken a correct view in directing for issuance of warrants of possession with police assistance. The appeal, therefore, deserves dismissal.

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[3] 1963 SCC OnLine SC 219

17. For all the reasons recorded above, we dismiss the appeal with cost which is quantified as Rs.10,00,000/- (Rupees ten lakhs only) to be paid by the appellant to the respondents within 4 weeks failing which it will carry an interest component of 12% per annum. Proof of payment of costs be filed within six weeks. If no such proof is filed, the Registry shall list this matter before this Court for appropriate orders.

.....J.
[VIKRAM NATH]

.....J.
[SANDEEP MEHTA]

NEW DELHI;
OCTOBER 07, 2025.