

224.

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

Civil Revision No.5233 of 2013 (O&M)

Date of decision: 08.12.2015

& Civil Revision No.4671 of 2014 (O&M)

Baljit Singh

... Petitioner

versus

Naseeb Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Onkar Rai, Advocate,
for the petitioner.

Mr. Jaideep Verma, Advocate,
for respondents 1 to 3.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. Both the revision petitions are connected and they are disposed of by a common order.
2. Respondents 4 and 5 could not be served for want of correct address. The counsel says that there is no conflict of interest amongst the respondents. I dispense with notice to the respondents 4 and 5 and proceed to hear the revisions on merits.

3. The revision petitions challenge the decree for ₹20,000/-, fettered as the petitioner is from challenging the correctness of the judgment of the civil court for a claim less than ₹25,000/- by means of a regular appeal, in terms of the bar under Section 102 of the Civil Procedure Code. If the appeal cannot be admitted under Section 100 CPC which requires a substantial question to be framed and the statute constitutes a bar under Section 102 for second appeal less than ₹25,000/-, the limit of inference under Section 115 or under Article 227 of the Constitution ought to be taken as exceedingly limited to examine any perversion in reasoning or lack of jurisdiction of the court that passed the order.

4. The amount directed to be paid in favour of the respondent-plaintiff was towards an amount received by the defendant pursuant to an agreement of sale dated 16.01.1996 as advance for a total consideration of ₹60,000/-. Admittedly, the agreement did not come through on account of third party claims and when the plaintiff was seeking for return of ₹28,000/- paid by him. The parties had attempted to settle the claims with the admission of a liability for repayment of the amount of ₹28,000/- with interest that aggregated to ₹34,000/- on 25.06.1997. Admittedly, the defendant had paid ₹14,000/- on 25.06.1997 and there remained a balance of ₹20,000/- which was required to be paid by the defendant before 21.10.1997. During all the time from

25.06.1997 to 21.10.1997, the defendant did not complain about the document as having been vitiated but when the plaintiff's suit for enforcement of the document dated 25.06.1997 that provided for claim for twice the amount of what was due if it was not paid before the stipulated time on 21.10.1997, the defendant came with a plea that it was brought about by practice of undue influence at the police station and came with his own suit for recovery of ₹14,000/- paid on 25.06.1997. The trial Court granted the decree for ₹40,000/- claimed by the plaintiff and dismissed the suit filed by the defendant for return of ₹14,000/-. In two appeals filed by the defendant, the court gave no right of enforcement of the clause for recovery of twice the amount of the balance of sale consideration but provided only the amount of balance that stood on 25.06.1997 viz., ₹20,000/-.

5. It was argued by the counsel appearing on behalf of the defendant/revision petitioner that the appellate court found that the case of the defendant cannot be said to be false but at the same time decreed the suit for ₹20,000/- which, according to him, was illogical and inconsistent.

6. I find nothing illogical and inconsistent about it, for, the fact was that there had been a receipt of ₹28,000/- which had not been repaid and the defendant had repaid only ₹14,000/-. If the defendant was contending that he was put to some undue influence at the police station, the court was not prepared to discard the whole

plea and relieved him of the obligation to pay twice the amount of what was recited in the document which could be a matter of pressure and the court, therefore relieved him of a clause that seemed to be *in terrorem* and directed the entire refund of the amount of what was fair. The court was, therefore, applying its judicial mind to relieve the defendant of a portion of liability under the document dated 25.06.1997 and was allowing only for a decree for ₹20,000/- with interest. The court below has done what was appropriate and fair and it would require no intervention in revision petitions.

7. Revision petitions are dismissed confirming the judgment of the court below.

(K.KANNAN)
JUDGE

08.12.2015
sanjeev