

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

CRR No.3889 of 2013

Date of Decision : 08.01.2015

Mam Chand

..... Petitioner

Versus

Dharambir and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Lokesh Sinhal, Advocate
for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This is a revision against acquittal of the respondent No.1-accused. This revision has been filed against the judgment and order dated 24.10.2013 passed by the Additional Sessions Judge, Faridabad whereby the judgment passed by the trial Court has been set aside and the respondent No.1-accused has been acquitted.

The allegations in brief are that the respondent No.1-accused had sold the land belonging to the petitioner on the basis of GPA executed by the father of the petitioner i.e. two years after the father of the petitioner had actually died and thus committed fraud. The appellate Court held that

knowledge of the fact that the father of the petitioner had died was not brought home against the respondent No.1-accused and this had cast a reasonable doubt.

Learned counsel for the petitioner has argued that firstly the respondent No.1-accused had categorically mentioned in the sale deed that the father of the petitioner was alive. As per the learned counsel, this implies that the respondent No.1 had made due inquiries and, if he had done so then the fact about the death is presumed to have come to his knowledge. The second argument of the learned counsel is that more than a year prior to the sale deed the land had been mutated in the name of the petitioner and this fact also shows that original owner had died. These facts have been considered by the appellate Court but it has held that these facts by themselves can not show beyond any reasonable doubt that the respondent No.1 had the knowledge of the death.

To my mind, this reasoning cannot be faulted. Even if there is a probability that the respondent No.1 knew about the death, yet this probability cannot be equated with certainty beyond reasonable doubt. Learned counsel has not been able to persuade me to take a different view to that taken by the appellate Court.

Revision petition is dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

January 08, 2015