

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102

*C.M. No. 9950-C of 2010 and
RSA No. 3404 of 2010*

Date of decision: 21.10.2015

Radhey Shyam Goel and others

....APPELLANTS

VERSUS

Jagdish Parshad and others

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.K.Garg Narwana, Sr. Advocate,
with Mr. Naveen Gupta, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 9950-C of 2010

Prayer in this application is for condonation of delay of 84 days
in re-filing the appeal.

For the reasons mentioned in the application, which is duly
supported by an affidavit of applicant/appellant No. 2, the same is allowed.
Delay of 84 days in re-filing the appeal stands condoned.

RSA No. 3404 of 2010

A suit was filed by the appellants-plaintiffs for declaration to
the effect that the gift deed dated 11.07.2001 in favour of respondent No. 1-
defendant-Jagdish Parshad is null and void and against the law and facts as

the same is based on fraud and misrepresentation and, thus, not binding on the rights of the plaintiffs and the performa respondents and further a suit was filed for permanent injunction restraining the respondent No. 1-defendant from alienating the land in excess of his share i.e. 1/8th in the suit land under the garb of the gift deed on the basis of the pleadings and the evidence led by the parties. The learned Additional Civil Judge (Senior Division), Loharu on 24.12.2007 dismissed the same, against which the appeal preferred by the appellants-plaintiffs was dismissed by the District Judge, Bhiwani on 25.01.2010. The present appeal is challenging these judgments and decree of the Courts below.

It is the contention of the learned senior counsel for the appellants-plaintiffs that it is the pleaded case of respondent No. 1-defendant No. 1 that the suit property he had received in a family settlement and, therefore, his claim with regard to the gift deed and the consequential benefits, which he has incurred, stands falsified. He, therefore, contends that the impugned judgments and decree cannot sustain.

This contention of the learned senior counsel for the appellants cannot be accepted in the light of the fact that the appellants-plaintiffs had to prove their case as per the pleadings where challenge was laid to the gift deed dated 11.07.2001 being based upon a document, which was a creation of fraud and misrepresentation. Respondent No. 1-defendant No. 1 has been able to prove the execution of the gift deed and the same has been found to be in accordance with law. It has further been held that the basic claim having not been succeeded as there is no evidence which would indicate that the said gift deed was not legally executed or that the same was based on fraud and misrepresentation, the Courts below have rightly rejected the

claim of the appellants-plaintiffs.

There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

October 21, 2015

pj

(AUGUSTINE GEORGE MASIH)
JUDGE