IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4862 of 2012 (O&M)
Date of Decision.28.08.2015

Anil Kumar Vashisht ....Appellant

Versus

Om Parkash Saboo and another ......Respondents

Present: Mr. Puneet Gupta, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

-.-

K. KANNAN J. (ORAL)

1. The suit is at the instance of the plaintiff who contended that a compromise brought about between the plaintiff and the defendant on 29.08.1998 was under duress and he was not bound by its terms. The purported compromise was subsequent to an agreement of sale executed between the plaintiff and under the terms of which the defendant had paid ₹ 5 lacs to the plaintiff and balance of sale consideration had to be paid before 31.12.1998 and sale deed to be obtained. Evidently the sale deed was not obtained and there was a claim for return of ₹ 5 lacs which was paid by him. His contention was that the defendant had trespassed into the property and had cut off the trees and had also brought out change into entries in the girdawari.

2. There was simply no point in discussing an issue whether the defendant was justified in cutting trees and whether the defendant was in possession of the property. The essential relief in the suit was that

the compromise which was said to have been brought about on 3.6.1998 was illegal. The suit had been filed on 7.3.2004. If a document which is sought to be assailed by person as brought about by duress, the action must have been taken within a period of three years from the date when the fraud was exercised and the duress was practised on the plaintiff. The suit had been filed five years after that and the suit was clearly barred by limitation. Even otherwise nothing was brought out for proving existence of fraud and the plaintiff had failed to prove such fraud or duress as having been practised on him. It must be noticed that the plaintiff is a person of full age and understanding and it is not every easy to understand as to how the defendant had such an overpowering influence to allow for fraud to be practised.

3. Learned counsel appearing on behalf of the appellant states that in the evidence at the trial, the defendant was even denying that there was an agreement on 3.6.1998. I think it is irrelevant that there had been any such denial, for, it is an admitted case by the plaintiff who wanted a relief that there was an agreement under the terms of which he obtained ₹ 5 lacs from the defendant. If the issue of whether the defendant was denying the agreement was irrelevant and if the receipt of ₹ 5 lacs itself was an admitted fact and the plaintiff was trying to get away from the recitals of the compromise through which he was bound to return ₹ 5 lacs to the defendant, I cannot find any meaning in an argument that the defendant was setting up a false plea regarding the original agreement. The suit was incompetent as clearly barred by limitation. If the trial Court and the Appellate Court had dismissed the action taken by the plaintiff, I will find no reason for making an

interference.

4. There is no substantial question of law for consideration in the second appeal. The second appeal is dismissed as devoid of merits.

(K. KANNAN)
JUDGE

August 28, 2015
Pankaj*