

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

RSA No.2999 of 2013 (O&M)

Date of Decision: 18.05.2015

Paramjit Kaur

.....Appellant

Versus

Iqbal Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present:- Mr. Ashish Gupta, Advocate,
for appellant.

SHEKHER DHAWAN, J

Present appeal is challenge to the judgment and decree dated 04.05.2013 passed by Additional District Judge, Karnal whereby the judgment and decree dated 09.11.2010 passed by Civil Judge (SD), Karnal was dismissed.

2. For the sake of convenience the parties are being referred to as per their status before the Court of first instance.

3. The detailed facts of the case have already been recapitulated in the judgments of Courts below. However relevant facts for the decision of present appeal that the plaintiff sought possession on the basis of specific performance of agreement dated 23.04.2007. As per plaintiff, the said agreement was duly executed for total sale consideration of ₹4.7 lacs and a

sum of ₹3.7 lacs was received as earnest money in presence of the

witnesses. Thereafter defendant failed to perform his part of the agreement and as such suit before the Court of first instance. Defendant contested the suit taking the plea that the said agreement is forged and fabricated document. In fact he had never executed any agreement. There was no need on the part of defendant to sell his land. The market value of the same was not less than ₹35 lacs per acre. He had not received earnest money of ₹3.7 lacs. Plaintiff is wife of Bagga Singh @ Dilbag Singh son of Sh. Sucha Singh. Defendant Iqbal Singh has no male issue and has one daughter namely Lakhwinder Kaur who is married to Gurbaj Singh son of Kartar Singh. The said Gurbaj Singh is *Ghar Jamai* of defendant Iqbal Singh. The husband of plaintiff Bagga Singh had entered into an agreement of sale of his agriculture land measuring one acre on 10.01.1992. At the time of said agreement defendant was attesting witness. However, subsequently Bagga Singh became dishonest and did not perform his part of agreement dated 10.01.1992. Gurbaj Singh was forced to file suit for specific performance and same was dismissed. Appeal was filed and same was also dismissed on 02.06.2000. Regular second appeal was filed before this Court and same was also dismissed. Bagga Singh had also filed an application for recession of the contract dated 10.01.1992 and same was also dismissed on 02.05.2003 by the executing Court. Objections were filed by Bagga Singh and the same was also dismissed. Later on Bagga Singh filed civil suit through his wife Paramjit Kaur seeking declaration that agreement dated 10.01.1992 is illegal null and void and the same was dismissed on 22.08.2006 with special costs of ₹2000/- as the said civil suit was filed by her in collusion with her husband. The matter was before this Court by way of revision and said revision petition was dismissed.

Defendant mainly took the plea that the agreement is result of forgery and cheating whereas no such agreement was executed by him in favour of plaintiff.

4. On these facts issues were framed and settled by the Court of first instance.

5. After recording evidence and appreciating of evidence Court of first instance dismissed the suit of plaintiff with cost of ₹3,000/- while returning the findings that agreement dated 23.04.2007 is forged and fabricated document. Plaintiff challenged the said judgment and decree by way of present appeal who remained unsuccessful and as such the appeal before this Court.

6. At the time of arguments Mr. Ashish Gupta, learned counsel for appellant took the plea that Courts below have not appreciated the evidence in its true prospective. The Courts below have not recorded any observation as to why the opinion of document expert i.e. DW-5 Yashpal Chand Jain, handwriting and finger print expert was not believed.

7. Argument was also advanced that the agreement is in fact result of forgery and cheating whereas no agreement was actually executed in favour of the plaintiff. The Courts below committed error while discarding the evidence of Gurdyal Singh on the ground that he is relative of Paramjit Kaur. The Courts below have not gone through the documents which was placed by the plaintiff-appellant in support of his case. As there were pending litigations between husband of plaintiff and son in law of defendant, entering into agreement to sell the suit land by defendant and plaintiff is quite improbable. The opinion rendered by hand writing expert is more correct than that the opinion formulated by the expert PW-4 Gurmit

Kaur so the present appeal be accepted and judgments of Courts below be reversed.

8. Having considered the rival submissions of learned counsel for both the parties and after perusal of record this Court is of the considered view that the primary dispute relates to execution of agreement dated 23.04.2007. Both the parties led the respective evidence. Both the Courts below minutely examined the evidence led by them. Courts below after appreciating the evidence formed the opinion and returned the findings. The said concurrent findings do not call for any interference by way of present appeal. The opinion given by hand writing expert Yash Pal Jain has been disbelieved by the Courts below whereas the opinion given by PW-4 Gurmit Kaur has been relied upon by the Courts below for the reasons detailed in the judgment. There is no substantial question of law involved in this case except appraisal of evidence available on file which has already been done by both the Courts below.

9. In view of the above the present appeal being without any merit stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 18, 2015

msd