

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 4311 of 2013 (O&M)

Date of decision: 12.08.2015

Gokal

...APPELLANT

VS.

Daulat and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.K.Chauhan, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

The present appeal has been preferred by the plaintiff where a suit was filed by the father of the plaintiff, Malkhan Singh-deceased praying for a declaration that the gift deed No. 3339 dated 14.12.1998 executed by him in favour of respondents-defendants was null and void and based on the mis-representation. Relief of permanent injunction against the defendants with regard to alienation of the suit land, the details of which were mentioned and described in the headnote of the plaint, was also sought, which suit has been dismissed by the trial Court and the appeal against the same has also been rejected.

It is the contention of the counsel for the appellant that the Courts below have not appreciated the fact that Malkhan Singh was an old man of 80 years and he deposed before the Court that he was taken to the Court under the pretext of giving an evidence where he was injected some

medicine and thereafter, the photograph was taken and brought to the Court and signatures taken on some papers. He contends that once the author of the document himself is asserting that the document was executed without his consent, the same should not have been accepted by the Courts below. He further contends that Malkhan Singh was a person, who was old and was not in a position to understand what was happening with him especially in the light of the drug, which was injected in his person. He thus, contends that the findings recorded by the Courts below cannot sustain and deserve to be set aside.

I have considered the submissions made by the counsel for the appellant and have gone through the records of the case.

The concurrent findings have been returned by the Courts below, wherein the respondents-defendants have been able to prove the execution of the gift deed by Malkhan Singh in favour of respondents-defendants No. 1 and 2 dated 14.12.1998. The appellant-plaintiff has miserably failed to prove the assertion with regard to the said gift deed having been got executed by way of fraud or mis-representation. The Courts have come to a definitive conclusion that assuming the same would have been correct, the first reaction should have been that a complaint should have been filed to the police regarding the fraud or mis-representation played upon Malkhan Singh. This assertion has neither been made in the statement nor has anything come in the cross-examination in this regard. No documentary evidence has been produced with regard to the fact that Malkhan Singh was not fit at the time of execution of gift deed and was suffering from some illness. The findings, as recorded by the Courts below, are based upon the pleadings and the evidence, as has been led

before the trial Court on due appreciation .

In view of the above, no ground for interfering in the present appeal is made out, more so when no substantial question of law arise for consideration of this Court.

The appeal stands dismissed.

August 12, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE