

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

Regular Second Appeal No.5006 of 2013 (O&M)

Date of decision: 10.08.2015

Gurcharan Singh

... Appellant

versus

Ganesh Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. P.K. S. Phoolka, Advocate,
for the appellant.

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)

CM Nos.13492-93-C of 2013

For the reasons stated in the applications, delay in re-filing and filing the appeal is condoned.

Applications stand disposed of.

Regular Second Appeal No.5006 of 2013 (O&M)

1. The plaintiff sued on the basis of a sale deed dated 12.04.1984. The sale was specifically denied by the defendant. The vendor Kaushalaya Devi herself was examined on the side of the defendant who denied her alleged thumb-impression in the sale deed and the defendant also brought an expert evidence by comparison of

thumb-impression found in the sale deed and the thumb-impression of Kaushalaya Devi and gave evidence to the effect that the document propounded by the plaintiff was not genuine. The court had also made reference to the fact that a criminal complaint had been filed against the plaintiff for criminal offences under Sections 467, 468 and 471 IPC and the plaintiff was also convicted. The plaintiff was trying to make out a case that Kaushalaya Devi was the owner of the property having obtained the same by some civil court proceedings against her father Sri Chand and other persons. Kaushalaya Devi denied that she had obtained any such decree. The plaintiff's source of title for the property therefore as a purchaser from Kaushalaya Devi who, in turn, was said to have claimed right to the property through a decree came to nought by the findings rendered by the trial Court as confirmed by the appellate Court.

2. It is stated by the learned counsel that the sale deed had never been challenged by the defendant at any point of time and the plaintiff had also examined a witness to the instrument who established the sale deed. It is also his contention that the plaintiff had stated everything which was relevant in suit and it was wrong to characterize the plaintiff's attempt to prove the source of title of his vendor as not brought out through any document. According to him, it was a matter of evidence and he had produced appropriate proof for the source of title of her vendor Kaushalaya Devi. He

claims to have preferred an appeal against the Criminal Court judgment and that it has not become final and there is an appeal pending against the same.

3. A suit that depends wholly on a consideration of whether the plaintiff's sale deed was true or not failed on account of a positive proof brought by the defendant that the plaintiff had obtained a sale deed by practice of impersonation and that there was no valid transfer of title under in his favour. The decree for possession which the plaintiff was claiming therefore failed on due consideration of matter which was the relevant.

4. I find no cause for intervention in second appeal. I find nothing substantial as a question of law arising for consideration. Second appeal is dismissed.

(K.KANNAN)
JUDGE

10.08.2015
sanjeev