

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

**Regular Second Appeal No.3168 of 2015 (O&M)
Date of decision: 08.07.2015**

Amar Singh (since deceased) through LRs.

.....Appellant(s)

Versus

Ashma Begum and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Hardip Singh, Advocate,
for the appellant(s).

Ritu Bahri, J.

Plaintiff-appellant, through his LRs, has come up in regular second appeal against the judgments of concurrent findings of facts dated 08.04.2013 and 13.02.2015 passed by the Civil Judge (Senior Division), Chandigarh and the Additional District Judge, Chandigarh, whereby his suit for declaration that the sale deed dated 05.10.2004 was null and void, has been dismissed.

In brief, facts of the case are that Amar Singh-plaintiff (appellant herein) was owner in possession of House No. 1059, situated at village Manimajra, Gobindpura Mohalla, U.T., Chandigarh. He was unmarried and had no children. He was being looked after by his brothers and their sons. He was unable to move and was confined to bed for the last so many years. Defendant-respondent No.1 was engaged as servant for the purpose of house cleaning, washing of clothes and other day to day services. She was allowed to live in the suit property. The defendant by taking undue advantage of bad

health of the plaintiff, forged a sale deed dated 05.10.2004 in her favour

allegedly showing the same to be executed by the plaintiff. It was stated that neither any such sale deed was signed by the plaintiff nor any consideration amount was ever passed over to the plaintiff with regard to the sale of property in question. He was not in need of money as he was having about Rs.50 lacs in his bank account, landed property about 25 acres and he had been receiving rent of Rs.7000/- per month from various tenants in his house and shops. The alleged stamp papers were purchased on 30.04.2004, whereas the sale deed was alleged to have been executed on 05.10.2004.

Upon notice, defendant-respondent NO.1 appeared and failed to file written statement. Accordingly, vide order dated 27.01.2007, the defence of defendant No.1 was struck off and the plaintiff was directed to lead evidence on the following issues:-

1. Whether the sale deed dated 05.10.2004 is liable to be set aside, as alleged? OPP
2. Whether the plaintiff is entitled to relief of permanent injunction restraining the defendant from alienating the suit property in any manner as alleged? OPP
3. Whether the plaintiff is entitled for relief of possession in alternative, as alleged? OPP
4. Relief.

During the pendency of trial, on an application moved by defendant Nos.2 and 3 under Order 1 Rule 10 CPC, they were impleaded as proforma defendants vide order dated 02.12.2008. Thereafter, they filed written statement and controverted the allegations levelled by the plaintiff. Later on, the defendants failed to appear before the trial Court and they were proceeded against exparte vide order dated 03.08.2011.

Trial Court, after going through the evidence led by the plaintiff, dismissed the suit. The sale deed in question was only qua the property measuring 22 Sq. yards, which was executed for a sale consideration of Rs.66,000/-. The admitted case of the plaintiff-appellant was that the defendant No.1 was working as maid servant in his house. The plaintiff was a man of means and if defendant No.1 intended to play fraud upon him, she could have executed sale deed or gift deed qua whole of the property of the plaintiff. Sale deed qua 22 Sq. yards of the property bearing No.1059 could not be the result of fraud played by defendant No.1 upon the plaintiff. The plaintiff was having big landed property and lacs of rupees in his bank account. Defendant No.1 was working as maid servant of the plaintiff and she had been provided accommodation in one part of the house of plaintiff. In the absence of any cogent evidence, execution of sale deed in favour of defendant No.1 could not be stated to be a result of forgery or fabrication. Amit (PW-2), who was posted as Clerk, had produced original record pertaining to the sale deed dated 05.10.2004. Copy of the sale deed in question was proved as Mark 'B'. Kranti K. Sharma, Document Expert (PW-3) tendered his report as Ex.PW3/1 along with photographic chart, Ex.PW3/2 to Ex.PW3/10. In view of the fact that the plaintiff had indirectly admitted his own signatures, except natural variations in the copy of the sale deed as compared with the standard signatures, they seem to be written by one and the same person. Moreover, the sale deed dated 05.10.2004 executed by the plaintiff in favour of defendant No.1 was only for 22 Sq. yards of property and in the absence of any cogent evidence, the trial Court dismissed the suit. The lower appellate Court affirmed the findings recorded by the trial Court and dismissed the appeal.

After going through the impugned judgments, this Court is of the view that it is admitted case of the plaintiff that signatures of Amar Singh-plaintiff were obtained on blank papers by defendant No.1, which were subsequently misused to forge the sale deed dated 05.10.2004. The signatures of the plaintiff were admitted, but what was being disputed was the manner in which those signatures were obtained. The plaintiff failed to prove any misrepresentation or fraud played by defendant No.1, who was working as maid servant of the plaintiff. No case of misrepresentation was proved by the plaintiff. Once the signatures were admitted on one or two papers, the report of handwriting expert has been rightly ignored by the trial Court. The comparison of admitted signatures of plaintiff with the available signatures on the sale deed dated 05.10.2004 has led to a conclusion that those were appended by one and the same person. The defendant-respondents did not produce the original sale deed before the trial Court despite availing number of opportunities. However, production of the original sale deed would not affect the merits of the case as signatures of Amar Singh on blank papers were admitted by the plaintiffs and there was no evidence of forgery and misrepresentation. Moreover, no criminal proceedings were initiated against the defendants-respondents by the plaintiff(s). The possibility that Amar Singh-plaintiff had executed sale deed dated 05.10.2004 in favour of defendant No.1 in lieu of services rendered by her, could not be ruled out.

Having examined the impugned judgments passed by the Courts below, no illegality, much less perversity, has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration by this Court.

Dismissed.

08.07.2015
ajp

(RITU BAHRI)
JUDGE