

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

**RSA No. 1923 of 2014 (O&M)**

**Date of Decision: November 05, 2015**

**Mahender Kaur alias Pinder and others**

**.... Appellants**

**vs.**

**Harvinder Kumar**

**.... Respondent**

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

**Present:** Mr. Jagjit Gill, Advocate for the appellants.

1. *Whether Reporters of Local Newspapers 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?*

**Kuldip Singh J.(Oral)**

**CM-4712-C-2014**

There is delay of 18 days in refiling the present appeal.

For the reasons mentioned in the application, supported by an affidavit, delay of 18 days in refiling the present appeal is condoned, subject to all just exceptions.

Application stands disposed of.

**RSA-1923-2014**

Impugned in the present regular second appeal is the judgment and decree dated 08.10.2013 passed by learned Addl. District Judge Sirsa, affirming the judgment and decree dated 13.05.2011 passed by learned Addl. Civil Judge (Sr. Divn.), Sirsa, whereby the suit of the plaintiff for declaration was dismissed.

Suffice to say that the plaintiff had challenged the mortgage deed 2879 dated 27.08.1999 executed by Baldev Singh, predecessor-in-interest of the plaintiff. It is stated that Baldev Singh

had some money transaction with the defendant-firm and he never mortgaged the land with the defendant nor he had received any mortgage consideration for the same and is merely a sham transaction. Baldev Singh died sometime before filing of the suit.

The defendant on the other hand affirmed the mortgage deed.

I have heard learned counsel for the appellants and have also carefully gone through the case file.

It comes out that mortgage deed was executed on 27.08.1999. Baldev Singh during his life time never challenged the mortgage deed. After the death of Baldev Singh, his legal heirs represented him and filed the suit. Baldev Singh was not available for cross-examination and to explain that no money was received by him. Had it been illegal or void, Baldev Singh could have challenged the mortgage deed within three years of its execution but he did not do so. The suit was filed much later in the year 2006 i.e. seven years after the execution of the mortgage deed. Therefore, first of all, it is hit by limitation and secondly, there is nothing on file to show that mortgage is without consideration and a sham transaction.

There are concurrent findings of both the courts below. No substantial question of law arises in the present appeal. Accordingly, the present regular second appeal stands dismissed.

**November 05, 2015**  
sarita

**(KULDIP SINGH)**  
**JUDGE**