

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 4974 of 2015 (O&M)
Date of Decision : 06.10.2015

Gajraj Singh

....Appellant

Versus

Ramesh @ Ramesh Kumra and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.S. Soi, Advocate
for the appellant.

Surinder Gupta, J. (Oral)

Heard.

This is an appeal against concurrent judgments of both the Courts below whereby the suit filed by plaintiff-appellant seeking declaration that sale deed dated 24.07.2006 executed by Ramesh @ Ramesh Kumar-defendant no. 1 in favour of Krishna Devi-defendant no. 2 pertaining to the suit property i.e. 4 *kanals* 3 *marlas*, as fully described in the headnote, is illegal, null and void, as the same was executed by defendant no. 1 just to defraud his creditors.

The Court of Additional Civil Judge (Senior Division), Narnaul while dismissing the suit of plaintiff-appellant discarded his plea on the grounds, as follows:-

- (i) The plaintiff had admitted that he is cultivating 1½ acre of land of Ramesh @ Ramesh Kumar because he had given loan to him.
- (ii) On the day of sale deed, defendant no. 1 deposited loan of ₹ 34,900/- with Primary Cooperative Agricultural and Rural Development

Bank, Narnaul.

- (iii) Defendant no. 1 owns two houses, one of which is old one situated in the village, and the other has been constructed by defendant no. 1 in his plot.
- (iv) The plaintiff has failed to prove that after transfer of the land measuring 4 *kanals* 3 *marlas* in favour of defendant no. 2, there would be no other source to recover the decretal amount from defendant no. 1.

Learned counsel for the plaintiff-appellant has argued that the sale was effected by the plaintiff three days after the decree for recovery of ₹ 10,931/- was passed in his favour on 21.07.2006 and this clearly exhibited the intention of defendant no. 1 to defraud his creditors. In fact there are six decrees in favour of plaintiff-appellant and his family members against defendant no. 1 of the total amount of ₹ 70,000/- and the sale was made by defendant no. 1 to avoid payment of amount as per those decrees.

The above submission made by learned counsel for the plaintiff-appellant has no merit in view of the fact that besides the land sold by defendant no. 1, he owns and possesses other properties as well and the decrees in favour of plaintiff-appellant and other persons can be satisfied against those properties. The intention of defendant no. 1 appears to be not to defraud his creditors rather to pay all his bank loan while selling the suit property.

On perusal of judgments of both the Courts below, I find no legal or factual infirmity therein calling for interference. No question of law, requiring determination, arises in this appeal, which has no merit.

Dismissed.

October 06, 2015
jk

(SURINDER GUPTA)
JUDGE