

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

-:-

**R.S.A No. 513 of 2015 (O&M)
Decided on : February 11, 2015**

Achhro (deceased) through LR.

... Appellant

Versus

Balwinder Singh

... Respondent

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Amandeep Singh Rai, Advocate, for the appellant.

Mahavir S. Chauhan, J. (Oral)

Unsuccessful plaintiff – Achhro impugns the correctness of judgment/decreed dated 27.11.2014 passed by learned Additional District Judge, Ludhiana, ('first appellate Court' – for short) whereby, judgment/decreed dated 16.07.2014 passed by learned Additional Civil Judge (Senior Division), Payal, ('trial Court' – for short), dismissing appellant's suit for declaration that transfer deed dated 23.02.2004, Exhibit D-1, is null and void, has been dismissed.

I have heard learned counsel for the appellant.

Only submission put forth on behalf of the appellant is that transfer deed, Exhibit D-1, has not been proved and at the same time delivery of possession of the suit property has also remained unproved.

As aforesaid, appellant had approached the learned trial Court for declaration to the effect that transfer deed dated 23.02.2004, Exhibit D-

1, is null and void as it was got executed from her by committing fraud. A decree of permanent injunction was also prayed for restraining the defendant/respondent from disposing of the suit property or creating any sort of charge thereon.

The suit was contested by the respondent by filing a written statement wherein pleas as set up and all other averments of the plaint were denied. Plaintiff filed replication reiterating his case as set up in the plaint.

On completion of pleadings, learned trial Court framed following issues from the pleadings of the parties:-

- 1) Whether the plaintiff is entitled to declaration as prayed for?OPP
- 2) Whether the plaintiff is entitled to injunction as prayed for?OPP
- 3) Whether the plaintiff has concealed the material facts?OPD
- 4) Relief.

Both the sides adduced evidence and were heard by the learned trial Court to reach a conclusion that the appellant was not able to prove her case. Accordingly, her suit was dismissed vide judgment/decreed dated 16.07.2014, which, as aforesaid, has been affirmed by the first appellate Court by dismissing her appeal (Civil Appeal No.101 of 06.08.2014) vide judgment/decreed dated 27.11.2014.

A perusal of the impugned judgments would reveal that

appellant- Achhro, while appearing as PW-3, has admitted that possession of suit property is with the respondent and she had moved an application, Exhibit D-2, before the Tehsildar for not sanctioning the mutation in the name of Balwinder Singh – defendant/respondent. A perusal of the application, as noticed by the learned first appellate Court, indicates that appellant admitted therein transfer of the suit property in favour of the respondent vide transfer deed dated 23.02.2004, Exhibit D-1, and that she wanted mutation not to be entered and sanctioned in favour of the defendant on the basis of transfer deed as Balwinder Singh (respondent) had been hurling abuses upon her and was not looking after her.

In view of the above, coupled with the fact that the deed of transfer, Exhibit D-1, has been duly proved by the respondent and the appeal is not shown to involve any substantial question of law, I regret my disinclination to interfere with the concurrent findings of fact recorded by the Courts below.

Dismissed.

February 11, 2015
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[Mahavir S. Chauhan]
Judge