

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

**RSA No.3490 of 2014 (O&M)  
Date of decision: 29.01.2015**

Kharati Lal Sharma

... Appellant

Vs.

Dimple Sharma and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Bhrigu Dutt Sharma, Advocate  
for the appellant.

**AMIT RAWAL J. (Oral)**

This regular second appeal is directed at the instance of appellant-plaintiff against the judgments and decrees of both the Courts below whereby suit of the appellant-plaintiff for claiming declaration challenging the sale deed dated 07.01.1997 being outcome of fraud, impersonation, misrepresentation and a relief of injunction restraining respondent No.2 claiming any mortgagery right over the property has been dismissed by the trial Court and appeal filed against the judgment and decree of the trial Court has also been dismissed.

Mr. B.D.Sharma, learned counsel for the appellant-plaintiff in support of his grounds of appeal submitted that both the Courts below have committed illegality and perversity in dismissing the suit

as well as appeal filed against thereof. He further submitted that the appellant-plaintiff through oral and documentary evidence proved sale deed dated 07.01.1997 executed by the father of the plaintiff suffered from act of fraud, impersonation and mis-representation and the present appeal, thus, involves the substantial question of law to be adjudicated by this Court.

I have heard learned counsel for the appellant and I am of the view that there is no merit in the appeal much less in the aforementioned submissions. The appellant-plaintiff failed to summon the attesting witness of the sale deed to show that a fraud had been played upon Gopal Dass-father of appellant-plaintiff. The plaintiff miserably failed to prove that the sale deed was executed under suspicious circumstances as no witness from the office of the Sub Registrar had been summoned or examined to show that Gopal Dass could not execute the sale deed as the property was ancestral. In order to prove that the property was ancestral or not, the appellant was required to summon the revenue record to show that the property at the hands of Kharati Lal Sharma had devolved upon from third generation and therefore, the appellant-plaintiff had pre-existing rights in the property in dispute. In the absence of any such evidence, both the Courts below have concurrently held that there was no merit in the suit as well as in the appeal.

Both the Courts below have rendered the finding based

on oral and documentary evidence.

No substantial question of law arises for adjudication of the appeal.

Accordingly, the appeal is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**January 29, 2015**  
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