

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

**RSA No.4214 of 2014 (O&M)
Date of decision: 11.12.2015**

Makhan Singh

... Appellant

Vs.

Jasbir Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Vipin Mahajan, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant No.1 is aggrieved of the judgment and decree of the lower Appellate Court, whereby, the suit filed by the plaintiff-Jasbir Kaur, has been decreed. In essence, the judgment and decree of the trial Court, whereby, the suit aforementioned was dismissed, has been set aside.

Mr. Vipin Mahajan, learned counsel for the appellant-defendant No.1 submits that the trial Court on the basis of the oral and documentary evidence dismissed the suit by holding that Will dated 05.12.2006 was surrounded by suspicious circumstances, therefore, the respondent-plaintiff could not acquire the title vide sale deed dated 03.08.2006, in essence, GPA was set aside. He further submits that Amar Kaur had filed a suit challenging the GPA but the

same was also cancelled and after that a criminal case was registered against the agents, i.e., the persons, who have been given authority to act on behalf of Amar Kaur. However, the lower Appellate has erroneously and perversely set aside the judgment and decree of the trial Court on the ground that sale deed dated 03.08.2006 has not been challenged, therefore, the substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellant-defendant No.1 and appraised the impugned judgment and decree of the lower Appellate Court.

The suit simpliciter was for claiming declaration that lease deed dated 25.03.2004 executed between defendant No.1 and defendant No.2 being null and void as defendant No.1 has no right to collect the rent from defendants No.2 and 3 owing to the fact that respondent-plaintiff was found owner and directing defendants No.2 and 3 to execute the sale deed with the plaintiff. The respondent-plaintiff did not seek declaration vis-a-vis ownership because she had already become owner by virtue of sale deed dated 03.08.2006. During the course of arguments, it has been submitted by Mr. Mahajan that suit was filed challenging the GPA, but after death, it has been abated. Even criminal case has resulted into acquittal of the accused, though the appeal is pending. The appellant-defendant has not challenged the sale deed by setting up counter claim, thus, until and unless the sale deed is not challenged, I am of the view,

the registered document carries a presumption of truth. When one plaintiff is the owner and Defendant No.1 did not have any right to seek intervention, enter into lease deed claiming himself owner with defendants No.2 and 3.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by the lower Appellate Court, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 11, 2015
savita