

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

**RSA No. 4779 of 2014 (O&M)
Date of Decision: 27.01.2015**

Avtar Singh

... Appellant

vs.

Kartar Kaur

... Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. Ranjit Saini, Advocate
for the appellant.**

ANITA CHAUDHRY, J.

A suit for declaration and permanent injunction was filed by Kartar Kaur, mother of the appellant laying challenge to the sale-deed/ transfer-deed dated 27.11.2009 and consequent mutation No.2309 obtained by the son fraudulently.

The plaintiff's case was that the sale-deed dated 27.11.2009 was a nullity as it was obtained by fraud by her son on the pretext of getting a Will executed in favour of the legal heirs and instead Avtar Singh got executed a sale-deed which was a result of fraud and misrepresentation. It was averred that no consideration had passed.

The defendant claimed himself to be a bonafide purchaser for consideration. He took the stand that the land was duly transferred by the plaintiff in his favour vide a registered sale-deed.

The suit was decreed. The appeal filed by the defendant

was dismissed. Having failed in both the Courts, this appeal by the defendant.

The plaintiff was admittedly the owner of the suit land. The revenue record proved her possession. The plaintiff besides examining herself, examined Sohan Singh and Kartar Singh, the attesting witnesses of the sale-deed as PW2 and PW3 respectively. Interestingly, the attesting witnesses to the sale-deed supported the plaintiff and deposed that the defendant took them to Sub Tehsil saying that Kartar Kaur had to execute a Will in favour of the legal representatives. The Courts below placed implicit reliance upon the testimony of the plaintiff in juxtaposition with evidence of the attesting witnesses to conclude that there was no consent of the plaintiff for getting the sale-deed executed, rather they had thumb marked the sale-deed believing the same to be a Will. No evidence, worth credence, was led by the defendant to prove that any consideration had passed. The plea of bonafide purchaser was rejected. The sale-deed was held to be a sham transaction which did not affect her title. In view of the overwhelming evidence on the record I find no reason to interfere with the concurrent findings recorded by the Courts below which are neither illegal nor suffer from perversity. The findings are affirmed. No substantial question of law arises for consideration in this appeal. Dismissed with costs.

27.01.2015

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**(ANITA CHAUDHRY)
JUDGE**