

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

RSA No.4804 of 2011 (O&M)

Date of decision : 06.05.2016

Roop Khan

...Appellant

Versus

Akbar and ors.

...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. Keshav Pratap Singh, Advocate for the appellant.

Mr. Sumeet Pal Singh Aulakh, Advocate for respondent No.4.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved of the dismissal of the suit filed in the year 2004 i.e. on 21.09.2004 challenging the sale deed dated 28.06.1989.

Mr. Keshav Pratap Singh, learned counsel appearing on behalf of appellant submits that plaintiff had executed sale deed aforementioned in favour of the respondent regarding land measuring 4 karam wide for giving the passage for sale consideration of ₹1,10,000/-. However, the defendant deceived by playing fraud and misrepresentation and got the sale deed registered for one killa. The plaintiff is still in possession of the property of one killa. Both the Courts below dismissed the suit by giving the findings on the limitation which is not sustainable and thus urges this Court to formulate substantial question of law as culled out in the memorandum of appeal.

Mr. Sumeet Pal Singh Aulakh, learned counsel appearing on behalf of respondent No.4 submits that judgment and decree of the Courts below are perfect, legal and justified. No concurrent findings of fact can be interfered until

and unless substantial question of law arises. Suit has rightly been barred by law of limitation.

I have heard learned counsel for the parties and appraised the paper book and of the view that limitation to challenge the registered document is three years. It is not the case of the appellant-plaintiff that by challenging that there is no limitation claiming title. Once the plaintiff was divested of the ownership of one killa of land wayback in 1989, whereas, suit has been filed after gap of 15 years. No explanation has come forth to challenge the sale deed within a period of limitation, rightly so, trial Court dismissed the suit being barred by law of limitation. During the course of hearing Mr. Keshav Pratap Singh, submits that as per report submitted under Section 145 Cr.P.C, it has been found that appellant is in possession of the land measuring one killa as rightly reflected in the sale deed.

I am of the view that in case respondent-defendant had actually played fraud and misrepresentation upon appellant-plaintiff, he would have taken steps to take the possession of the property but till date, no steps have been taken. Even in case any step is taken after dismissal of the present appeal, appellant-plaintiff shall not be precluded from taking all the pleas as envisaged under Section 27 and Article 65 of the Limitation Act, 1963.

In view of the aforementioned facts and circumstances, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for determination by this Court.

Dismissed.

06.05.2016

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**(AMIT RAWAL)
JUDGE**