

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

RSA No.2986 of 2013  
Date of decision : 04.05.2016

Ankur Chhabra and others

...Appellants

Versus

Dr. Sudhir Chhabra

...Respondent

**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. Ashok Verma, Advocate for the appellants.

Mr. Anurag Jain, Advocate for the respondent.

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**AMIT RAWAL, J. (Oral)**

The appellants-defendants are aggrieved of the concurrent finding of fact, whereby suit seeking declaration for setting aside the registered relinquishment deed dated 29.12.2000 registered in the office of Sub-Registrar, Hisar, on the ground of fraud have been played upon them as no such relinquishment deed was executed by Suman Lata widow of Satinder Singh, has been decreed.

Mr. Ashok Verma, learned counsel appearing on behalf of appellants submits that aforementioned relinquishment deed is registered one and attested by one PW10 Kuldeep Singh. Satinder Chhabra had died on 21.08.1990. During this period, did not challenge the relinquishment deed and

suit was filed on 04.06.2004 at the instance of brother against whom Suman Lata had filed eviction proceedings. Once Suman Lata had no love and affection for respondent-plaintiff obviously she would not have relinquished the property in his favour. On her demise, Suman Lata moved an application therefore non disclosure of relinquishment deed would not be fatal in defence of the appellants-defendants. Respondent-plaintiff failed to discharge the onus with regard to ingredients of Order 6 Rule 4, in fact failed to discharge the ingredients of Section 101 of the Indian Evidence Act. All these factors have not been noticed by both the courts below and urges this Court to formulate following substantial questions of law:-

1. Whether Smt. Suman Lata would be presumed to have purchased the plot in dispute with her own sources and the onus to prove that she had purchased the plot with joint family funds, was entirely upon the respondent and the appellants could not be expected to prove the negative that she had not purchased the plot with her own sources?
2. Whether in view of the onus of proof of issues No.1 and 2 having been placed upon the respondent-plaintiff, appellants No.1 and 2 failed to prove that Smt. Suman Lata had purchased the plot in dispute with her own sources?
3. Whether having separated from the parents and his brother soon after marriage, the respondent could claim that mother purchased the plot in dispute with joint family funds and thus forming a joint family property?

He further submits that plaintiff has also failed to prove that the property referred to in the deed was purchased from the joint funds, in essence,

respondent-plaintiff have failed to prove the character and nature of the property. Being self-acquired property, she has transferred the same by relinquishment deed.

Mr. Anurag Jain, learned counsel appearing on behalf of respondent-plaintiff submits that at the time of the registration of the relinquishment deed, Suman Lata had suffered fracture and was confined on bed. On non-disclosure of the same, while moving application for bringing on record LRs shows that they were aware of the aforementioned documents. PW10 Kuldip Singh attesting witness of the deed is working in the office of lawyer who deposed that he did not go at the time of registration of the same. In proceedings initiated by the bank against the company, Suman Lata had deposed that she had never given sale deed to the bank and application for appointment of the expert was moved which was allowed and report of Handwriting Expert given in the proceedings initiated before the DRT shows that the signatures on the mortgage deed and on another security document were not of hers. The said report came on comparison of the specimen signatures. Concurrent findings of fact cannot be interfered into.

I have heard learned counsel for the parties and appraised the paper book and of the view that respondent-plaintiff has failed to discharge the onus inasmuch as that registration of the document and signatures of Suman Lata has not been belied. No witness from the office of Sub-Registrar has been examined to lead evidence in support of the pleadings as according to the plaintiff, Suman Lata had suffered fracture. No medical evidence has been proved on record. In my view the plaintiff has failed to discharge the onus, much less, ingredients of Order 6 Rule 4. Suman Lata during all this period i.e. from the date of execution of the deed till the death, almost 2 ½ year, did not

challenge the same. Suman Lata did not depose in the affidavit submitted before DRT that her signature was challenged by the appellant, thus, there is no force and submission of Mr. Anurag Jain.

In my view, the respondent-plaintiff has also failed to prove that the property at the hands of Suman Lata was purchased out of the joint funds. All these factors have not been noticed by Courts below, thus, there is illegality and perversity.

Accordingly, substantial question of law noticed above are answered in favour of appellants-defendants and against the respondent-plaintiff.

Judgment and decree of both the Courts below are set aside.

Suit stands dismissed.

Appeal is allowed.

**04.05.2016**

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**(AMIT RAWAL)  
JUDGE**