

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

**R.S.A No.386 of 2016(O&M)
Date of decision :18.11.2016**

Ram Phal

..... Appellant

Versus

Smt. Chandro and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Sanjay Mittal, Advocate
for the appellants.

DARSHAN SINGH,J

The present appeal has been preferred against the judgment and decree dated 10.07.2015 passed by the learned Additional District Judge, Rewari, whereby the appeal filed by appellant-defendant against the judgment and decree dated 28.04.2012 passed by the learned Addl. Civil Judge (Sr. Division), Rewari, has been dismissed.

2. Plaintiff-respondent no.1-Chandro filed the suit for declaration that she is co-owner in possession of the suit property. Defendant is a clever person, who in collusion with others got executed two release deeds bearing Vasika No. 682 dated 16.05.2000 and Vasika No. 1898 dated 06.08.2000 by fraud. She never appeared in the Tehsil Office, Rewari for execution of the aforesaid release deeds. Hence the suit.

3. The suit has been contested by defendants on the grounds *inter alia* that the plaintiff-respondent has been admitting Sultan, the husband of defendant no.7 and father the remaining defendants to be owner in possession of the suit land. After the death of Sultan, defendants were admitted to be the owner in possession of the suit property. They further pleaded that both the release deeds were duly executed by plaintiff with her own free will and without any influence in favour of Sultan. After the death of Sultan, defendants have become the owners in possession of the suit land. Plaintiff had never remained in possession of the suit land. With these pleas, they pleaded for dismissal of the suit.

4. From the pleadings of the parties, the following issues were framed by the learned trial Court vide order dated 21.12.2007:-

1. Whether the plaintiff is entitled for declaration as prayed for? OPP
2. Whether the suit is not maintainable in the present form? OPD
3. Whether the suit is bad for want of non joinder of necessary parties? OPD
4. Whether the suit is time barred? OPD
5. Whether plaintiff is stopped by his own act and conduct to file the present suit? OPD
6. Whether the Court fee is deficient? OPD
7. Whether the plaintiff has no cause of action to file the present suit? OPD
8. Relief.

5. On appreciation of the evidence and the contentions raised by learned counsel for the parties, the learned trial Court decreed the suit filed by the plaintiff vide impugned judgment and decree dated 28.04.2012 and a decree for declaration was granted to the plaintiff to the effect that the release deeds dated 20.05.2000 and 06.07.2000 are illegal, null and void.

6. Aggrieved with the aforesaid judgment and decree,

appellant-defendant preferred the appeal. The same has also been dismissed by the learned Additional District Judge, Rewari vide impugned judgment and decree dated 10.07.2015. Hence this Regular Second Appeal.

7. I have heard Mr. Sanjay Mittal, learned counsel for the appellant-defendant and have carefully gone through the paper book.

8. Initiating the arguments, learned counsel for the appellant contended that plaintiff-respondent-Chandro had validly executed the release deeds dated 16.05.2000 and 06.07.2000 in favour of Sultan, the predecessor-in-interest of the defendants. He contended that Chandro has been admitting the defendants and prior to them deceased-Sultan to be the owner in possession of the suit property. He further contended that infact the suit has been filed by the plaintiff at the instance of Babu Lal, the real brother of the plaintiff due to greed of the property of the plaintiff. Thus, he contended that the judgment and decrees passed by the learned Courts below are erroneous.

9. I have duly considered the aforesaid contentions.

10. The plaintiff-respondent no.1-Chandro has challenged the release deeds dated 16.05.2000 and 06.07.2000 allegedly executed by her in favour of Sultan, the predecessor-in-interest of the defendants on the ground of fraud. She has categorically pleaded that she never appeared in the office of Sub-Registrar, Rewari for execution and registration of the release deeds. Chandro has stepped into the witness box as PW-3. She has categorically deposed that she never executed the release deeds in question. Her statement is also supported from the statement of PW-1-

Babu Lal, who has stated that the photographs of the plaintiff were obtained at the time of the Bhaat ceremony which were later on mis-utilized.

11. The consistent findings of the learned Courts below that the release deeds in question are forged and fabricated documents is not based on the oral evidence alone, rather the reliable scientific evidence. The Hon'ble Apex Court in case **Jaspal Singh Vs. State of Punjab 1979 AIR (SC) 1708** has laid down that the science of identifying the thumb impression is an exact science and does not admit of any mistake or doubt. The same principle of law has been laid down by this Court in case **Chotti Vs. Maya Devi and others 2011(5) R.C.R(Civil) 639** and **Nihal Kaur (deceased) Vs. Jugraj Singh 1997(3) R.C.R (Civil) 584**.

12. In the instant case, the learned trial Court very prudently and to rule out any kind of objection has obtained the specimen thumb impressions of the plaintiff and the said specimen thumb impression along with original release deeds were sent to the Director Forensic Science Laboratory, Madhuban for comparison of the admitted and disputed thumb impressions of the plaintiff by the Finger Print Bureau, Madhuban. The report of the Finger Print Bureau, Forensic Science Laboratory, Madhuban has been proved by PW-6 Multan Singh, the finger print expert, who was member of the team which examined the admitted and disputed thumb impressions. In the said report, a categoric finding has been given that the questioned thumb impression on the release deeds do not tally with the sample thumb prints of Chandro. The aforesaid expert evidence is also corroborated from the oral evidence

adduced by the plaintiff, which could not be rebutted by the appellant-defendant. Thus, from the evidence brought on record by the plaintiff-respondent no.1, it was established that the release deeds dated 16.05.2000 and 06.07.2000 were the forged documents which were never thumb marked by the plaintiff-respondent no.1. Thus, no fault can be found with the consistent findings recorded by the learned Courts below setting aside the aforesaid release deeds and declaring the same to be illegal, null and void.

13. Thus, keeping in view of my aforesaid discussion, there is no perversity or illegality in the concurrent findings recorded by the learned Courts below.

14. Consequently, no question of law, much less, the substantial question of law arises in the present appeal.

15. Therefore, the present appeal being devoid of merits, is hereby dismissed with no orders as to costs.

November 18, 2016

s.khan

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No