

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

R.S.A.No.4720 of 2016 (O&M)

Date of Decision: September 30th, 2016

Sheo Chand (now deceased) through L.R.

...Appellant

Versus

Mahavir & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

**Present: Mr.Kanwaljit Singh, Senior Advocate with
Mr.Amandeep Singh Meho, Advocate,
for the appellant.**

AMIT RAWAL, J. (Oral)

Sheo Ram, who was alive at the time of filing of the suit, instituted the suit seeking declaration that the registered release deed No.418 dated 20.5.2004 in respect of land measuring 54 kanals 3 marlas comprised in Khewat No.159/Min146, 280/Min251, Khatauni No.202, 369, 370, Khasra No.10//25/2 (4-15), 211//4 (0-7), 5(7-7), 6(8-0), 7 (6-6), 13 (7-18), 18 (8-0), 23/2 (3-0), 101//21/1 (8-0) and mutation No.2574 dated 18.7.2004 were the result of fraud and misrepresentation, therefore, null and void and also for possession and mesne profit at the rate of ₹10,000/- per acre per annum with consequential relief of permanent (prohibitory) injunction restraining the defendants from alienating the suit land and creating third party rights, but the same has been dismissed by both the Courts below.

Mr.Kanwaljit Singh, learned Senior Counsel assisted by

Mr.Amandeep Singh Meho, representing the appellant submits that no doubt

Sheo Ram, during the pendency of the appeal, had died. Sheo Ram was none else but the brother of father of the respondents. A fraud was played upon him by the defendants in getting the release deed as he had not intended to transfer the property in the name of his nephew. The Courts below have non-suited the plaintiff on the ground of limitation, much less the appellant has failed to prove the ingredients of Order 6 Rule 4 CPC. He further submits that the possession, after 2004 as per khasra girdawri Ex.P8, was of the appellant, but at the time of filing of the suit, the possession was also taken and, thus, there is illegality and perversity in the concurrent findings.

I have heard the learned counsel for the appellant and appraised the paper book.

Except the self-serving statement of the plaintiff, no other direct, cogent or corroborative evidence has been led. Even the scribe of the registered release deed has also been proved. Registered document carries a presumption of truth. If at all, Sheo Ram was aggrieved of the aforementioned fraud, nothing prevented him to lodge or initiate any criminal proceedings. Four years elapsed after the execution of the registered document.

Though after the execution of the release deed, khasra girdawries remained in the name of Sheo Ram, but the possession was taken in 2004, therefore, relief of possession was sought, but Sheo Ram has not been able to prove the ingredients of Order 6 Rule 4 CPC, which is essential requirement of law. In the absence of the evidence supporting the pleadings, suit cannot succeed, much less registered document cannot be set-aside on the backdrop of the fact.

For the foregoing reasons, I do not intend to differ with the findings rendered by both the Courts below, which are based on appreciation of oral and documentary evidence, much less no substantial question of law arises for determination. No case for interference is made out.

Appeal stands dismissed.

September 30th, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No