

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

**RSA No.3429 of 2015 (O&M)
Date of decision:08.02.2016**

Mrs. Seema Rani

... Appellant

Vs.

Shashi Bhuhan

... 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. Ivneet Singh Pabla, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.8302-C-2015

For the reasons stated in the application, duly supported by an affidavit, delay of 18 days in filing the appeal is condoned.

Application stands disposed of.

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The appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby, suit claiming declaration and consequential relief of injunction for setting aside of the sale deed dated 22.06.2004, has been dismissed by both the Courts below.

Mr. Ivneet Singh Pabla, learned counsel appearing on behalf of the appellant-plaintiff submits that witnesses of the

defendant have rather proved the case of fraud and misrepresentation having played upon the appellant-plaintiff. As per the endorsement, sale deed, aforementioned, no consideration had been passed at the time of registration. The respondent-defendant failed to prove the payment of ₹2,42,000/, the witnesses were inconsistent in the testimony, in essence, they have not been equanimous in their testimony, rather proved the case of fraud and misrepresentation and these facts have been ignored by the Courts below, therefore, there is illegality and perversity in the findings rendered by both the Courts below, much less, substantial question of law arises for determination of this Court.

I have heard learned counsel for the appellant and appraised the impugned judgments and decrees of the Courts below.

It is a matter of fact that the appellant-plaintiff through minor had instituted a similar suit which had been withdrawn in the Lok Adalat, vide order dated 30.07.2005. The ingredients of Order 6 Rule 4 of the Code of Civil Procedure by discharging the onus as per Section 101 of the Indian Evidence Act, have not been proved. Except self serving statement of plaintiff, no corroborative evidence has been led to prove fraud and misrepresentation.

I cannot remain ignorant of one aspect. The sale deed is of 22.06.2004, whereas, suit had been filed on 02.01.2008 beyond the period prescribed under Article 58 of the Limitation Act.

In view of what has been observed above, I do not find

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any illegality and perversity in the findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeal. The impugned judgments and decrees are affirmed.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 08, 2016
savita