

In the High Court of Punjab and Haryana at Chandigarh

RSA No.5722 of 2015(O&M)

Date of Decision: 30.3.2016

Lal Chand and others

---Appellants

versus

Maya

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Nonish Kumar, Advocate
for the appellants

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present appeal has been directed against the consistent findings recorded by the courts below, dismissing suit of the plaintiffs/appellants whereby they have challenged sale deed dated 20.5.2011 bearing Wasika No. 557 executed by Heta son of Nanuwa in favour of Smt. Maya wife of Mahi Lal son of Heta.

The plea of the appellants is that Heta son of Nanuwa was an illiterate person and did not understand the nature of impugned sale. He was taken to the office of Tehsildar, Hodal with regard to old age pension but respondent No. 1 in active connivance of her husband were successful in obtaining the sale deed in favour of respondent No. 1. Another plea raised by the appellants is that the sale deed is without consideration as no

money was paid by defendant No. 1 to defendant No. 2.

The learned trial court, on due consideration of the pleadings of the parties and evidence adduced, negated plea of the appellants in regard to the sale deed in question having been procured by defendant No. 1 in the circumstances sought to be pleaded by the plaintiffs/appellants. The findings recorded by the learned trial court were affirmed in appeal on all material aspects without any variance.

Counsel for the appellants would contend that the appellants examined three witnesses to substantiate their plea in regard to the sale deed being the result of misrepresentation and without consideration but the courts below failed to appreciate their evidence in right perspective. Another submission made by counsel is that the appellate court while disposing of the appeal did not record findings issue-wise.

I have heard counsel for the appellants, perused the records particularly the judgments impugned in appeal.

Before advertng to the submissions made by counsel for the appellants, it is appropriate to note that the second appeal can be admitted for hearing only if gives rise to a substantial question of law.

The fact that the sale deed is a registered document and a presumption of correctness is attached to the endorsement of the Sub Registrar goes a long way to negate plea of the appellants that the sale deed in question is the result of misrepresentation or recitals in the sale deed with regard to payment of sale consideration are to be entertained with doubt. Sh. Heta, erstwhile owner of the suit property was impleaded as one of the defendants in the suit. It is not clear on record as to when Heta

passed away. However, counsel for the appellants has submitted that he died few months after the sale deed in question came into existence. It is not plea of the appellants that Heta was suffering from any medical condition much less affecting his mental faculties. The mere fact that a person is a villager or illiterate is not sufficient to accept plea of the appellants that either he was not competent to transfer his property or could not understand the consequences of transaction of sale. If such a contention of the appellants is accepted, it would be adding something to the provisions of the Indian Contract Act dealing with 'parties competent to contract' and thus exceeding jurisdiction vested in the court.

So far as the contention that the court in appeal did not record findings issue-wise, in absence of any prejudice having been shown to be caused to the appellants for failure of the appellate court to do so, the same cannot be a ground to set aside the consistent findings recorded by the courts below. In this view of the matter, I find myself unable to accept submissions of the appellants that either the judgments passed by the courts below are perverse or the same give rise to a question of law much less a substantial one.

For the foregoing reasons, the appeal fails and is ordered to be dismissed in limine. In view of dismissal of the appeal on merits, the application for condonation of delay in the circumstances, is of academic relevance only.

(Rekha Mittal)
Judge

30.3.2016
PARAMJIT