

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

**C.M. NOS.7503-04 C OF 2014 &
R.S.A. NO.3229 OF 2014**

DATE OF DECISION: FEBRUARY 02, 2016

Ram Chand

.....Appellant

VERSUS

Smt.Kela Devi and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

**Present: Mr. Sanjeev Kr. Panwar, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.7503 C of 2014

Prayer in this application is for condonation of delay of 12 days
in filing the appeal.

For the reasons mentioned in the application, which are
supported by an affidavit of the applicant-appellant, the present application
is allowed and delay of 12 days in filing the appeal stands condoned.

C.M. No.7504-C of 2014 & R.S.A. No.3229 of 2014

Challenge in this appeal is to the judgment and decree dated
31.01.2012 passed by the Additional Civil Judge (Senior Division), Palwal,
whereby the suit preferred by the appellant-plaintiff for declaration to the
effect that the relinquishment deed dated 04.08.2005 executed by the

appellant-plaintiff in favour of respondent-defendant Nos.2 to 5 and thereafter the sale deed dated 05.12.2005 in favour of respondent-defendant No.1 and the consequent entries in the revenue record, with a further declaration that the said sale deed executed by Tej Singh, defendant No.2 in favour of defendant No.1 was without any basis, justification or legal necessity being ancestral property, cannot be binding upon the appellant-plaintiff and respondent Nos.2 to 5 and, therefore, deserve to be set-aside, has been dismissed, appeal against which preferred by the appellant-plaintiff before the Additional District Judge, Palwal, stands dismissed on 08.01.2014.

It is the contention of learned counsel for the appellant that the judgments and decree passed by the Courts below cannot sustain as the same are contrary to the pleadings and evidence brought on record. He contends that the relinquishment deed dated 04.08.2005, Ex.P6, was obtained by respondent-defendant Nos.2 to 5 from the appellant-plaintiff under a threat to finish his life and to deprive him from his bread and butter on the pretext of obtaining the tractor loan and, thus, the same would not have binding effect on the appellant-plaintiff. In fact, he had proceeded to sell the said land in favour of respondent-defendant No.1 without any legal necessity, which cannot sustain as it is an ancestral property. He further contends that the very basis i.e. the relinquishment deed, being obtained on the basis of a fraud, misrepresentation and under coercion, would not be binding on the appellant-plaintiff as respondent-defendant Tej Singh, who was a man of bad habits being addicted to wine and gambling, squandered the money by sale of land and, therefore, cannot be said to be based upon the legal requirements or bonafide necessity, which would fulfill the

mandate of the statute. He, thus, contends that the present appeal may be allowed by setting-aside the impugned judgments and decree passed by the Courts below.

I have considered the submissions made by learned counsel for the appellant and with his assistance have gone through the impugned judgments.

In the suit, the basic requirement for the appellant-plaintiff was to prove that the land in dispute was an ancestral property of joint Hindu family. The revenue records, which have been produced on record, only indicate that prior to the relinquishment deed, the appellant-plaintiff was the owner in possession of the said land. The requirement for a property to be declared as an ancestral is that the same is of three generations with regard to the succession and it having not fulfilled, the very foundation of the suit stands demolished. In case the property is not ancestral, all the pleas raised by the appellant-plaintiff would not sustain.

Further more, there is only a bald statement made by the appellant-plaintiff with regard to fraud, misrepresentation and coercion qua the relinquishment deed and no other evidence has been produced on record to prove it and, thus, the same cannot be made the basis for setting-aside the relinquishment deed. The Courts below have rightly relied upon the judgment passed by this Court in Lali Devi and others Vs. Jai Singh and others, 2012 (3) CCC 275, where it has been held that bald statement would not be enough to prove the fraud and misrepresentation and the assertions and allegations have to be proved in the same manner like a criminal charge. The findings on this count also, as given by the Courts below, do not call for any interference.

Further, both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

Since the main appeal stands dismissed, C.M. No.7504 C of 2014 for staying the operation of the impugned judgment and decree is also dismissed.

February 02, 2016
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE