

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

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Regular Second Appeal No.5354 of 2014

Date of Decision: January 15, 2016

Dhanno and another

...Appellants

Versus

Dhani Ram @ Duni

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sumit Gupta, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 26.03.2012 passed by the Additional Civil Judge (Senior Division), Jhajjar, whereby the suit for declaration filed by the appellants-plaintiffs to the effect that the registered sale deed dated 09.10.1989 and the subsequent mutation sanctioned on the basis of the said sale deed dated 31.10.1989 is a forged and fabricated document and, therefore, illegal, null and void, has been dismissed, on the ground of the suit being barred by limitation and also on the ground that there is an admission on the part of appellant-plaintiff No.2 in another suit which was filed in the year 1991, where he had not specifically denied the due execution of the sale deed dated 09.10.1989, appeal against which preferred by the appellants-plaintiffs stands dismissed by the District Judge, Jhajjar, on 10.07.2014 upholding the judgment and decree passed by the trial Court.

2. It is the contention of learned counsel for the appellants that the judgments and decree passed by the Courts below cannot sustain as the same are not in consonance with the pleadings and the evidence which has been brought on record. He contends that the thumb impressions which

have been stated to be that of the appellant-plaintiff No.1 are not of her and on this basis, he contends that the handwriting and fingerprint expert has found the said fact to be correct. Once the said factum has come on record, the findings as recorded by the Courts below cannot sustain as the impugned sale deed is illegal, null and void. Accordingly, a prayer has been made for setting aside the impugned judgments and decree and allowing the present appeal.

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

4. The first aspect which has to be dealt with is whether the suit of the appellants-plaintiffs is within the limitation prescribed for challenging such a sale deed as in the present case?

5. The registered sale deed admittedly is dated 19.10.1989. Appellant-plaintiff No.2 has in the year 1991 in Civil Suit No.453 of 1991, if not specifically admitted but not denied the factum of the due execution of the sale deed dated 09.10.1989. The presence, therefore, of such a sale deed was to the knowledge of appellant-plaintiff No.2 with effect from 1991, whereas the present suit has been filed on 30.05.2006 which is far beyond the period of limitation prescribed for challenging a sale deed as the date of knowledge could be the period till which it could be said that the said document was not to the nohow of the plaintiffs. The findings, thus, recorded by the Courts below with regard to the suit being barred by limitation, cannot be faulted with.

6. In any case, in the light of the Civil Suit No.453 of 1991 which was initiated by one of the tenants, where a specific stand with regard to the

registered sale deed dated 09.10.1989 had been mentioned which factum had not been denied by appellant-plaintiff No.2 in the written statement. The said aspect proves beyond doubt that the sale deed had been duly executed. That apart, it is a registered sale deed and, therefore, the presumption with regard to its due execution also stares at the face of the appellants-plaintiffs. The findings, thus, recorded by the Courts below on this count also does not call for any interference.

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

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

January 15, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE