

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 5525 of 2014 (O&M)

Date of Decision: 25.4.2016

Tara Singh

---Appellant

versus

Ranjit Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Ashok Singla, Advocate
for the appellant**

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 whereby suit filed by Tara Singh through Iqbal Singh, Darshan Singh and Smt. Harvinder Kaur as guardian and next friends was dismissed by the learned trial court and the judgment passed by the trial court was affirmed in appeal by the Additional District Judge, Jalandhar vide judgment and decree dated 5.4.2014.

The facts relevant for disposal of the present appeal are that as per allegations, in the month of September 2006, the respondent (real brother of Tara Singh) had arranged an Akhand Path and on the bhog ceremony, Tara Singh was also taken by his son to village Kang Kalan, Tehsil Shahkot. At the request of defendant and his family members, son of

the plaintiff left Tara Singh at the house of the defendant. By taking advantage of unsoundness of the plaintiff, defendant illegally got a sale deed executed from the plaintiff in his favour and mutation No. 2163 was sanctioned in favour of the defendant on the basis of sale deed dated 28.9.2006. Tara Singh was under treatment of Arora Neuro Centre Ludhiana since 1996. He even remained admitted in the hospital a number of times. On 20.3.2010 when Iqbal Singh and Tara Singh went to village Kang Kalan, he came to know that the sale deed has been forged and fabricated by the defendant.

The respondent/defendant filed the written statement, raised certain preliminary objections qua maintainability of the suit and competence of the plaintiffs to file the suit on behalf of Tara Singh. It has been averred that Tara Singh sold land in dispute in sound disposing mind for a sale consideration of Rs. 6,34,000/-. All material averments of the plaint have been denied with a prayer for dismissal of the suit.

The learned trial court on a detailed and thoughtful consideration of the pleadings, issues framed for determination, evidence adduced and rival submissions made by counsel for the parties, non-suited claim of the plaintiff/appellant. The findings recorded by the learned trial court were affirmed without any variance by the first appellate court.

Still feeling dissatisfied, the present appeal has been preferred.

Counsel for the appellant would contend that to substantiate allegation qua Tara Singh being a person of unsound mind, Dr. Sandeep Sharma PW5, Dr. Arun Kumar Dhanuka PW6 and Dr. B.P. Mishra PW7 were examined. It is further submitted that the Courts below have failed to

appreciate the medical evidence in right perspective and as a result committed serious error in rejecting claim of the appellant and decided issue no. 1 against him. It is further argued that as Sh. Tara Singh was a person of unsound mind at the time when the sale deed in question was purported to be executed by him on 28.9.2006, the said sale deed cannot be held good in the eyes of law.

I have heard counsel for the appellant, perused the records and the judgments impugned.

The courts below have recorded consistent findings to negate plea of the appellant that he was a person of unsound mind in September 2006 when the sale deed in question was executed and got registered at the behest of Sh. Tara Singh in favour of his brother Ranjit Singh respondent/defendant. There cannot be any quarrel with the settled position in law that a regular second appeal can be admitted for hearing only if there is a substantial question of law involved for adjudication. In the case at hand, the main plank of challenge to the registered sale deed dated 28.9.2006 is that Tara Singh, executant was a person of unsound mind and therefore, incompetent to understand his good or bad or the implications of the transaction in question. No doubt, three doctors were examined to substantiate the allegations of the plaint in regard to mental condition of Sh. Tara Singh but none of the witnesses could establish that Tara Singh was insane or he was of unsound mind in the year 2006. On a pointed query raised by the Court as to whether a person who has suffered dementia or memory deficit can be said to be a person of unsound mind, counsel is not in a position to give any satisfactory reply much less to refer to any

authoritative medical text to establish plea of the appellant on the basis of evidence adduced on record. In this view of the matter, I do not find any merit in the contentions of the appellant or to find any fault in the concurrent findings recorded by the courts below when otherwise no question of law much less a substantial one arises for adjudication.

For the foregoing reasons, finding no merit, the appeal is dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

25.4.2016

PARAMJIT