

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

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RSA No.4579 of 2015 (O & M)
Date of Decision:08.12.2017

Vinod Kumar and another

...Appellants

Versus

Mansa and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Munish Kumar Garg, Advocate
for the appellants.

ANIL KSHETARPAL, J.(Oral)

Plaintiffs-appellants are in regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiffs filed a suit for declaration challenging registered exchange deed dated 27.05.2008 and sale deed dated 25.06.2008.

Both the Courts below after appreciating the evidence available on the file, dismissed the suit. Both the Courts have recorded a concurrent finding of facts that the plaintiffs have failed to prove any fraud.

Learned counsel for the appellants has vehemently argued that although fraud is not proved but misrepresentation is proved. I repeatedly asked from learned counsel for the appellants to point out such contention being raised before the Courts below, however, learned counsel failed to point out this fact.

This Court cannot permit the learned counsel for the appellants to raise an argument, which was never raised before the Courts below.

Learned First Appellate Court has further recorded that the plaintiffs had admitted in his cross-examination that they had exchanged 24

marlas of land with 12 marlas of land. The plaintiffs had further admitted that they appeared before the Tehsildar for the execution and registration of the transfer deed in question where computerized photos of the parties were snapped and sale deed was witnessed by Singara Singh, Nambardar and Dilbag Singh son of Hawa Singh. This finding has not been challenged by the learned counsel for the appellants.

Taking into consideration the findings of the fact arrived at by the Courts below, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Hence, this regular second appeal is dismissed.

08.12.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No