

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

**RSA No.5315 of 2015 (O&M)
Date of Decision: August 01, 2017**

Joginder

... Appellant

Versus

Manjit Singh

... Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rakesh Kumar, Advocate,
for the Appellant.

ANIL KSHETARPAL, J.

CM 12664-C of 2015

This is an application for condonation of delay of 16 days' in filing the present appeal. The application is supported by an affidavit.

For the reasons stated in the application, delay of 16 days in filing the present appeal is condoned.

RSA No.5315 of 2015.

The plaintiff is in Regular Second Appeal against the judgements passed by the Courts below.

Plaintiff has challenged the sale deed dated 20.07.2005 on the ground that he had never executed the aforesaid sale deed and the aforesaid sale deed was the result of a fraud. The plaintiff had also taken a ground that he is an illiterate person and he fell in the trap of the defendant.

Defendant appeared and contested the suit. It was pleaded by the defendant that the sale deed was executed in his favour by the plaintiff

with free will and volition. After the execution of the sale deed, plaintiff requested that he should be allowed to live in the house for a period of two months, which was acceded to. Thereafter, plaintiff further made a request for grant of additional time, which was also granted. It was further pleaded that the plaintiff thereafter neither handed over the possession nor paid the electricity bill.

After appreciating the evidence available on the file, learned trial Court recorded a finding of fact that the plaintiff has failed to prove the plea of fraud by leading any substantive evidence, whereas, defendant has been able to prove the agreement to sell and the sale deed.

The appeal filed before the first Appellate Court was also dismissed by the Court after reappreciating the evidence available on the file. Learned first Appellate Court has also noticed that the plaintiff has admitted his signatures, however, he had stated that the signatures were taken on the blank papers. The learned first Appellate Court has also noticed that the plaintiff has not been able to explain how his photograph appeared on the sale deed. The first Appellate Court further noticed that the defendant has not been able to establish any evidence on the record to prove the fraud.

I have heard the learned counsel for the appellant at length.

Learned counsel for the appellant has submitted that this is a case of hardship. The appellant is a poor man. He has further submitted that in fact defendant was working as a travel agent and had agreed to send the son of the plaintiff abroad. It was in that context that certain documents

were executed as security by the appellant.

I have considered the argument of the learned counsel for the appellant.

After the sale deed has been executed, the plea of hardship cannot be examined. Further, no such plea has been taken before the Courts below. For the first time, in this Court, the appellant cannot be permitted to take up a point, which was not raised and dealt with by the Courts below.

Still further, the learned Courts below have found that the plaintiff has not been able to prove the plea of fraud. The signatures and thumb impressions on the sale deed are admitted. There is a photograph of the appellant on the sale deed. The sale deed is a registered document. The registered sale deed has presumption of truth.

Finding no reason to interfere with the concurrent judgements passed by the Courts below, the appeal is ordered to be dismissed.

(ANIL KSHETARPAL)
JUDGE

01.08.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No