

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

(126)

**RSA-3448-2017 (O&M)
Decided on: July 19, 2017.**

Satish Kumar

.... Appellant

Versus

Chandi Ram

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Raman Gaur, Advocate, for the appellant.

M.M.S. BEDI, J (ORAL)

This is defendant's second appeal against the judgment and decree passed by the Courts below, decreeing the suit of the plaintiff-respondent for declaration to the effect that release deed No.1130 dated 23.11.2007 regarding the land which is to the extent of 540/2161 share in the agricultural land, jointly co-owned by the parties, was null and void.

While decreeing the suit, the plea of the plaintiff-respondent was accepted that he was an old, illiterate, rustic and infirm person and was made to execute the release deed Ex.P-1 by taking him to the Registrar on the pretext of execution of a partition deed.

Learned counsel for the defendant-appellant has vehemently contended that the Courts below, while decreeing the suit of the plaintiff-respondent, have ignored the fact that the defendant had got tubewell connection installed on the property and had also cleared the loans of the plaintiff and had been rewarded by the defendant-appellant because the appellant, as adopted son, had got him treated in P.G.I for his ailment.

Learned counsel for the defendant-appellant has made a reference to the statement of the wife of the plaintiff made in the Court wherein she has admitted that the defendant had been adopted. It has also been argued by learned counsel for the appellant that fraud has not been specifically pleaded and proved by producing cogent evidence.

I have heard learned counsel for the defendant-appellant and gone through the judgments passed by the Courts below.

The execution of the release deed in favour of the defendant on 23.11.2007 by a registered document, has been established. The relationship of the defendant-appellant being nephew of the plaintiff-respondent, has also been established. The release deed is apparently without consideration. Besides this, the plaintiff-respondent had got a right to challenge a document by virtue of which he had been made to relinquish his rights in the property which is the joint property. The fiduciary relationship between the parties, is established from the record, produced by both the parties. The presumption of undue influence, coercion and fraud, stands established. Both the Courts have given a concurrent finding of fact regarding the release deed dated 23.11.2007 having been obtained in a fraudulent manner. The deceit and fraud stand established.

In view of the concurrent finding of fact, I do not find any sufficient ground to interfere in the said finding and to hold that the release deed dated 23.11.2007 as a validly executed document by the plaintiff in favour of the defendant.

No ground is made out for interference in the orders passed by the Courts below. Besides this, no substantial question of law is involved in

the appeal for adjudication.

The appeal is dismissed.

(M.M.S. BEDI)
JUDGE

July 19, 2017
harsha

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No