

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

**RSA No.4138 of 2017 (O&M)
Date of Decision: 01.09.2017**

Nachattar Kaur

... Appellant

Versus

Rajwant Kaur and others

... Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Harsh Garg, Advocate,
for the Appellant.

ANIL KSHETARPAL, J. (ORAL).

The plaintiff is in Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

In this case, the original plaintiff Nachattar Kaur had executed a transfer deed duly registered with the Sub Registrar in favour of her daughter Rajwant Kaur on 28.05.2008. It bears the photographs of the executant. After few months, since Rajwant Kaur and Upinder Dulay two daughters, filed a civil suit, therefore, in counter blast the present suit was filed challenging the transfer deed on the ground of fraud and undue influence.

Both the Courts below have concurrently found that the plaintiff has failed to prove either the fraud or undue influence.

Learned counsel for the appellant has submitted that Nachattar Kaur (since deceased) had on the same day executed a Will in favour of the other daughter i.e. Ramanwant Kaur. He has further submitted that one of

the attesting witnesses of transfer deed was not known to the executant and late Smt. Nachattar Kaur had put her thumb impressions on the transfer deed under challenge whereas she used to put signatures on the various documents executed by her during her lifetime.

I have considered the submission of the learned counsel for the appellant and with his able assistance gone through the judgements passed by the Courts below.

The first argument of the learned counsel is with regard to the execution of the Will by Nachattar Kaur in favour of Ramanwant Kaur. This shows that Nachattar Kaur wanted to transfer her property in favour of her children. She had gone to the Tehsil premises, hence she also executed a transfer deed in favour of defendant.

Still further, the second argument of the learned counsel is that one of the attesting witnesses was not known to Nachattar Kaur. It may be noticed that the second attesting witness is the cousin brother of Nachattar Kaur, who was closely related to the executant. The marginal witnesses are not required to be known to the executant.

Last argument of the learned counsel for the appellant is that Nachattar Kaur had put her thumb impressions on the transfer deed whereas she used to sign on the documents.

The plaintiff has not led any evidence to prove that the thumb impressions do not belong to Nachattar Kaur. She was an old lady. If she chose to put thumb impressions on the transfer deed then such circumstance cannot be taken as a suspicious circumstance to avoid a registered sale deed

which has a presumption of truth.

In view of the above, I do not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

The appeal is dismissed.

01.09.2017
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(ANIL KSHETARPAL)
JUDGE

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