

**In the High Court of Punjab and Haryana at Chandigarh**

**RSA No. 854 of 2013(O&M)**

**Date of Decision:8.10.2018**

**Randhir and others**

**---Appellants**

**vs.**

**Sandeep and another**

**---Respondents**

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

**\*\*\***

**Present:** Mr. N.C.Kinra, Advocate  
for the appellants  
Mr. Kulvir Narwal, Advocate  
for the respondents

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**Rekha Mittal, J.**

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit filed by Jeet Singh (since deceased) represented by his legal representatives for declaration with consequential relief of permanent injunction by challenging the release deed dated 20.2.2003/24.2.2003 registered on 28.2.2003 was dismissed by the trial court vide judgment and decree dated 29.1.2010 that came to be affirmed in appeal by the Additional District Judge, Rohtak.

The facts relevant for disposal of present appeal are that as per case set up by plaintiff Jeet Singh, he is owner in possession of 1/5<sup>th</sup> share in land measuring 132 kanal 5 marlas and 1/10<sup>th</sup> share in land measuring 11

kanal 2 marlas, situated at Mauja Attail, Tehsil and District Rohtak, detailed in para No. 1 of the plaint. He remained unmarried and succeeded to his share in the suit land after death of his father Shri Ram Partap Singh. Balbir Singh, father of defendant No. 1 and husband of defendant No. 2 passed away long ago. Plaintiff helped the defendants by cultivating their share of land and in providing shelter to them after death of his brother Balbir Singh. The plaintiff was diagnosed with cancer about two years ago. In order to settle all disputes regarding his share in the suit land, he decided to transfer his share to families of his brothers namely Sukhbir Singh, Baljit Singh, Balraj Singh and Balbir Singh in equal parts. The plaintiff is an illiterate person and had never visited any public office and seen any legal proceedings. He requested defendant No. 1 on the asking of defendant No. 2 to get a document prepared to transfer his share to families of his brothers. The defendants who are very clever and shrewd persons managed to get plaintiff's thumb impression on blank paper, prepared a release deed and got the same registered by getting two fake witnesses namely Suresh son of Raghbir resident of village Attail and Mahender Singh Lambardar of village Kheri Sampla and are not known to the plaintiff till date. It is further averred that the defendants played fraud upon the plaintiff. After getting the release deed executed and registered, they abused the plaintiff and threw him out of his own house in severe ailing condition a month ago. He got copy of release deed from the office of Sub Registrar, Sampla and discovered that defendants have cheated him and managed to get a document registered without knowledge and consent of the plaintiff.

The respondents-defendants filed the written statement and, in

turn, controverted all the allegations on the basis whereof Jeet Singh had challenged the release deed executed in favour of Sandeep son of Balbir Singh. It is averred that release deed was duly executed by the plaintiff out of his sweet will and consent in presence of witnesses on 20.2.2003 at Sampla and got it registered vide document 1413 Bahi No. 1 Zild No. 14 on 28.2.2003 in presence of witnesses and Joint Sub Registrar, Sampla. All other material averments of the plaint have been denied with a prayer for dismissal of the suit.

The controversy between the parties led to framing of issues by trial court, reproduced in para No. 4 of the judgment. The parties were permitted to adduce evidence in support of their respective contentions. Having heard counsel for the parties in the light of materials on record, the trial court answered the material issues against the plaintiff and resultantly, suit was dismissed without any orders as to costs.

The appeal preferred by legal representatives of Jeet Singh remained unsuccessful as the Court in Appeal affirmed findings of the trial court on issue No. 1 in respect of the release deed in question.

Still feeling dissatisfied, the present appeal has been preferred by Randhir Singh and others who are sons of Sh. Sukhbir Singh son of late Ram Partap, brother of Jeet Singh.

Counsel for the appellants would argue that taking undue advantage of illiteracy and sympathy shown by Jeet Singh towards the respondents on account of death of Balbir Singh, his brother and predecessor in interest of the respondents, they got executed the release deed in favour of respondent No. 1 when as a matter of fact Jeet Singh

wanted to transfer his share in total land to families of his brothers namely Sukhbir Singh, Baljit Singh, Balraj Singh and Balbir Singh in equal shares. Jeet Singh appeared in the witness box and reiterated his tale of woe and agony in his testimony on oath. It is vehemently argued that the courts have failed to appreciate evidence on record and rival contentions raised by counsel for the parties in right perspective, therefore, seriously faulted in upholding release deed to be valid, genuine and executed by Jeet Singh out of his sweet will and volition. It is urged that the release deed has been registered on 28.2.2003 but the same has two dates 20.2.2003 and 24.2.2003 with regard to its execution, sufficient to create doubt with regard to the document having been executed and got registered by Jeet Singh voluntarily.

Counsel for the respondents has supported consistent factual findings recorded by the courts with the submission that contentions raised by the appellants do not make out a case that judgments passed by the courts suffer from perversity or raise a question of law that requires determination in regular second appeal. It is further argued that the Court in second appeal cannot re-appreciate the evidence and interfere in consistent factual findings merely because another view is possible. It is argued with vehemence that story propounded by Jeet Singh at the behest of his brothers has no legs to stand and has rightly been rejected by the courts. Further argued that plea raised by Jeet Singh gets rebutted by testimony of Jagbir Singh, Naib Tehsildar, Kharkhoda DW1, who registered the release deed on 28.2.2003.

I have heard counsel for the parties, perused the paper book and

records.

Indisputably, the suit to challenge release deed registered on 28.2.2003 was instituted on 12.3.2003 just 10-11 days after the release deed came into existence. In para 8 of the plaint, it is averred that the respondents-defendants managed to get thumb impressions of the plaintiff on a blank paper, prepared the release deed and got the same registered by getting two fake witnesses namely Suresh son of Raghbir Singh and Mahender Singh Lambardar of village Kheri Sampla, not even known to the plaintiff till date. The second grievance expressed by Jeet Singh is that after getting the release deed executed and registered, the defendants abused the plaintiff and threw him out of his own house in a severe ailing condition a month ago. He got copy of release deed dated 20.2.2003/24.2.2003 from office of the Sub Registrar, Sampla and discovered the fraud and cheating.

As Jeet Singh filed the suit within 11 days from registration of release deed and 21 days from the date of its execution on 20.2.2003, it falsifies and belies his story that after getting the release deed executed and registered, the defendants threw him out of his house a month ago. It appears that since Jeet Singh nurtured some grievance against the defendants after the release deed was executed and registered by him or he was persuaded by his other brothers to file the suit, the present suit was filed just within 11 days of registration of release deed. I stand fortified in my observations from the fact that on 12.3.2003, Jeet Singh purportedly got registered a Will in favour of his brothers or their families.

The plea of the plaintiff is that his thumb impressions were obtained on a blank paper and release deed was got registered by getting

two fake witnesses not even known to the plaintiff till date. This plea of Jeet Singh gets falsified and belied from the facts stated in his examination in chief and elicited in cross examination. In his examination in chief, he has stated that son of his brother and his mother took him to Sampla by saying that they would get made a Will in the name of all. The Will was got typed. After getting it typed he told him that the same is in the name of nephews and brothers. He has nowhere stated that his thumb impressions were obtained on a blank paper under a false pretext of preparing a Will and thereafter the release deed was got typed. He has stated in cross examination that he was taken to deed writer on 20.2.2003. He affixed his thumb impression on the paper and at that time, Suresh and Mahender Singh Lambardar were present. Suresh son of Raghbir is his nephew from relationship. He further stated that they did not go to the Tehsildar thereafter. Suresh, Mahender Singh and Dharamvir were not present before the Tehsildar when his thumb impressions were obtained.

Indisputably, the release deed was not registered on the day it was executed meaning thereby that Jeet Singh had gone to Sampla on 20.2.2003 when his thumb impressions were obtained at the seat of deed writer and later he went to the office of Tehsildar where again his thumb impressions were obtained, sufficient to demolish his plea that his thumb impressions were obtained on blank paper. Similarly, claim of the appellant that release deed was got registered by procuring two fake witnesses namely Suresh and Mahender Singh Lambardar whom he did not know till date also gets falsified and belied in view of the facts elicited in his cross examination, noticed hereinbefore. Further, the story concocted by Jeet

Singh gets sufficiently demolished from testimony of Jagbir Singh, Naib Tehsildar, Kharkhoda DW1 who has proved that release deed was registered by him after the same was read over to Jeet Singh and witnesses namely Dharambir Lambardar and Suresh. He has also stated that Jeet Singh was identified by Dharambir Lambardar. In his cross examination, the witness has stated that as Mahender Singh Lambardar was not of village Attail, the party was asked to bring Lambardar of village Attail and the release deed was got attested from Dharambir Lambardar. He denied the suggestion that attestation of Dharambir Lambardar was got entered by the beneficiary in connivance with officials of the department. Taking into consideration testimony of Jeet Singh and statement of Jagbir Singh DW1, I find it difficult to accept contention of the appellant that concurrent findings recorded by the courts suffer from an error much less perversity warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed with costs.

**(Rekha Mittal)**  
**Judge**

**8.10.2018**  
paramjit

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