

RSA No.4202 of 2016(O&M)
DATE OF DECISION:13.11.2018

Avinash Kaur

...Appellant

Vs.

Amit Kumar & others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jasmail Singh Brar, Advocate
for the appellants.

AMIT RAWAL, J.(ORAL)

CM No.10814-C of 2016

For the reasons mentioned in the application, the same is allowed and delay of 152 days in refiling the appeal is condoned.

RSA No.4202 of 2016

Appellant-plaintiff has not been successful in laying challenge to the sale deed dated 15.11.1994 allegedly executed by her in favour of defendant No.1-Amit Kumar. Nonetheless the fraud was played by defendant No.1 by presenting certain bank papers in respect of the suit property. No sale consideration was ever passed upon. Even the witnesses to the sale deed, particularly, Inderjit Singh Bedi had turned hostile, yet the court below dismissed the suit. Even the lower appellate Court also dismissed the suit. Father of the vendee had not appeared for the cross examination. All these factors had not been examined. Even the FIR at intervention of the court was directed to be registered but it not make any headway.

I am afraid aforementioned argument of Mr. J. S. Brar is not

sustainable regarding stand that the land had been given on contract (Batai). It is unbelievable that the person who is getting rent or income from the property would remain silent for almost seven years and make an attempt to bring the case within the provision of Article 59 of the Limitation Act. The witnesses may tell lie but the documents do not. It is common practice among the witnesses to toe to the line of the parties who engages them. To a specific question in the cross examination, the plaintiff admitted that she was conversant with Punjabi and could read Punjabi. Intentionally she had appended signatures in English language on the sale deed and also in vernacular. Article 58 envisage the limitation of three years to challenge the act done by a party. No doubt fraud vitiates everything and limitation Act would not come but the appellant has miserably failed to prove the ingredients under order 6 Rule 4 of the Code of Civil Procedure. No same person would sit idle at home realising that he executed a registered document. No effort has been made to summon the witness from the office of sub-Registrar to prove impersonification.

I do not find any illegality and perversity in the findings rendered by both the Courts below which are based upon appreciation of oral and documentary evidence much less no substantial question of law arises for adjudication of the present appeal.

Dismissed.

13.11.2018
rimpal

(AMIT RAWAL)
JUDGE

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