

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 4676 of 2016(O&M)

Date of Decision: 14.9.2018

Balbir Kaur and another

---Appellants

versus

Sarwan Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. R.S.Sekhon, Advocate
for Mr. Arshdeep Singh Sivia, Advocate
for the appellants**

Rekha Mittal, J.

CM No. 12083-C of 2016

Prayer in this application is for condoning delay of 28 days in
refiling the appeal.

Heard.

Allowed as prayed for. Delay of 28 days in refiling the appeal
stands condoned.

Disposed of accordingly.

RSA No. 4676 of 2016

The present appeal directs challenge against concurrent
findings recorded by the courts whereby suit for possession in respect of
land measuring 22 kanal out of land measuring 32 kanal 19 marlas as well
as relief of permanent injunction restraining the respondents-defendants
from alienating the suit land was dismissed by the trial court vide judgment

and decree dated 15.10.2014 and appeal preferred by unsuccessful appellants-plaintiffs did not find favour with the Additional District Judge, Tarn Taran.

The appellants-plaintiffs have staked their claim to the suit land primarily on the ground that sale deed dated 7.7.1993 purported to be executed by the appellants does not bear their thumb impressions and signatures and the same is illegal, null and void ab initio. On the contrary, plea of the respondents-defendants is that the appellants sold their share out of suit land by way of registered sale deed dated 7.7.1993 and at that time, Jarnail Singh-plaintiff No. 2 was major and competent to execute the sale deed. The answering defendants-respondents purchased the suit land for sale consideration of Rs. 1,24,000/- and plaintiff Balbir Kaur prepared a bank draft of Rs. 1,14,000/- through saving account of defendant No. 1 at Punjab and Sind Bank, Shahbazpur.

The courts have consistently held that the appellants-plaintiffs have failed to substantiate their plea that the sale deed in question was executed by impostor of the appellants or the same is without consideration. It has been proved on record on the basis of records maintained in Punjab and Sind Bank, Shahbazpur that a demand draft of Rs. 1,14,000/- was prepared in the name of Balbir Kaur from account No. 3698 of the respondent-defendant which was payable at Muktsar Branch of Punjab and Sind Bank. Counsel for the appellants has failed to point out any materials on record to substantiate plea of the appellants that factual findings recorded by the courts suffer from error much less perversity warranting intervention. This apart, no sooner the sale deed is proved to be executed by the appellants, the present suit filed in the year 2009 to challenge sale deed of

1993 is otherwise clearly barred by law of limitation, more particularly, in the circumstances that the appellants, admittedly, are not in possession of the suit land.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

14.9.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No