

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

RSA No.5232 2016 (O&M)

Date of Decision.04.12.2018

Bakhshish Kaur and others

....Appellants

Vs

Gurpreet Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Shrey Goyal, Advocate
for the appellants.

-.-

AMIT RAWAL J. (ORAL)

The appellants-plaintiffs have not been successful in claiming joint ownership in the estate of Mohinder Singh by laying challenge to the sale deeds of November/December, 1999 and January, 2000 executed by husband of plaintiff No.1 and father of plaintiff Nos.2 and 4 in favour of defendants.

It was alleged that Mohinder Singh was having the land at his disposal and had executed a registered Will dated 3.6.1999 in favour of nephews but in respect of two killas of land bequeathed in favour of plaintiff No.1. In such circumstances, he could not have alienated the property in the manner and mode. The sale deeds were without consideration as the defendants played fraud upon him. He died on 26.05.2000 and the suit was filed in the year 2001. Both the Courts below have abdicated in not noticing the aforementioned facts, as the appellant widow had been left in lurch. Defendants failed to place on record any proof that the consideration reflected in

the sale deed was ever passed on to Mohinder Singh or to the appellants-plaintiffs.

I am afraid aforementioned argument is not sustainable, as after execution of the sale deed, Mohinder Singh remained alive for almost 4 ½ months but he did not lay any challenge to the aforementioned sale deeds. The ingredients of fraud as per Order 6 Rule 4 CPC have not been proved. The Will is testimony of the fact that he had love and affection for nephews. Except two killas of land, he bequeathed other remaining piece of land in favour of his nephews. On the other hand, defendants proved execution of the Will, much less, sale deed through testimony of attesting witnesses. Despite extensive cross-examination, nothing suspicious or contrary surfaced. No other argument has been made.

In view of the aforementioned facts, both the courts below have no other option but to dismiss the suit. No ground for interference is made out, much less, no substantial question of law arises for determination by this Court.

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 04, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No