

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

**RSA No.6849 of 2016 (O&M)
Date of Decision:12.10.2018**

Kanwaljit Kaur

...Appellant

Versus

Sarjiwan Kumar

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Onkar Rai, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

The plaintiff, who is mother-in-law of the defendant, seeks cancellation of the sale-deed, which was executed on 10.12.2001 and registered on 11.12.2001, on the ground that it is based upon fraud.

Both the courts after examining the ex parte evidence have found that the plaintiff has failed to prove the fraud.

It is undisputed that the plaintiff is a widow of Assistant Director, Horticulture, whereas her daughter and son-in-law are police officials.

Learned counsel for the appellant has submitted that son-in-law (respondent) wanted to go abroad and, therefore, he got the property transferred in his favour in order to show that he has some assets.

This Court has considered the submission, however, find no substance therein.

Learned counsel for the appellant could not draw attention of the Court to any requirement for getting permanent Visa to the effect that a person must be owner of the property in India. Still further, keeping in view the status of the parties and their education, a registered sale-deed executed, cannot be set aside on the ground of fraud particularly when fraud has not been proved. Fraud is required to be pleaded and proved beyond any reasonable doubt.

Learned counsel for the appellant has further submitted that the mother-in-law and the son-in-law were in fiduciary relationship. Such argument is to be examined in the context of status of the parties. In the present case, even daughter of the appellant (wife of the son-in-law of course later on divorced) is also a police official.

In view of the above, there is no ground to interfere. The present regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

12.10.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No