

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

RSA No.2185 of 2017 (O&M)

Date of decision:18.12.2018

Gurmeet Singh and another ... Appellants

Vs.

Basakha Singh and others ... Respondents

RSA No.2195 of 2017 (O&M)

Gurmeet Singh and another ... Appellants

Vs.

Basakha Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. M.P.S.Mann, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.5302-C of 2017 in RSA No.2185 of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 45 days in re-filing the appeal is condoned.

C.M stands allowed.

C.M.No.5338-C of 2017 in RSA No.2195 of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 38 days in re-filing the appeal is condoned.

C.M stands allowed.

RSA Nos.2185 and 2195 of 2017 (O&M)

This order of mine shall dispose of two Regular Second Appeals bearing Nos.2185 and 2195 of 2017 arising out of same suit which was partly decreed by the trial Court and the Lower Appellate Court decreed in toto.

The plaintiffs, four in number claimed to be owners in possession as co-sharers on the basis of the Will dated 01.10.2001 executed by Mukhtiar Singh in favour of his sons by setting aside the sale deed bearing no.535 dated 14.08.2006 to be an outcome of fraud, misrepresentation and sham executed on the basis of registered attorney dated 09.08.2006 and injunction restraining the defendants from alienation.

It was alleged that one Jaimal Singh was owner of the property and he had one son Harnam Singh, who had two sons Maghar Singh and Mukhtiar Singh. Mukhtiar Singh, unfortunately died on 28.08.2006 and left behind sons and daughters. Mukhtiar Singh at the age of 95 years executed attorney dated 09.08.2006 in favour of Karnail Singh, who allegedly misused the same and executed the sale deed dated 14.08.2006 which could not have been executed as the nature and character of the property was ancestral.

The defendants opposed the suit and claimed to be owners of the suit property for a valuable consideration. The sale deed was executed after appearance before the Sub-Registrar. There could be dispute amongst the attorney and successor-in-interest of Mukhtiar Singh regarding the sale

consideration but the sale deed could not be set aside as there was no element of fraud and misrepresentation.

Mr. M.P.S.Mann, learned counsel appearing on behalf of the appellants submitted that the appellants are bonafide purchasers for a valuable consideration and sale deed could not have been rejected as they had passed on the possession to the attorney Karnail Singh, who was agent in pursuance to the attorney dated 09.08.2006 as Mukhtiar Singh died 14 days after the sale deed. The plaintiffs miserably failed to bring the case within the provisions of Order 6 Rule 4 CPC, much less nature of the property to be ancestral.

I have heard the learned counsel for the appellants, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Mann, for, sequence of events, as noticed above, reveals that immediately after 05 days of execution of power of attorney, Karnail Singh sold the land and Mukhtiar Singh at that relevant point of time was fragile and 95 years old, who unfortunately died on 28.08.2006. It is an act of mis-representation and fraud played upon the agent and as well as his legal representatives. On the other hand, plaintiffs have been able to prove the Will to establish that Mukhtiar Singh had bequeathed the entire property in their favour and also the nature of the property to be ancestral which had gone un-controverted.

The findings of facts and law cannot be faulted with to be suffering from illegality and perversity. No ground for interference is made out.

The regular second appeals are dismissed.

(AMIT RAWAL)
JUDGE

December 18, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No