

RSA-3246-2017 (O&M)

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

RSA-3246-2017 (O&M)

Date of decision : 18.12.2018

Pal Singh (deceased) through LRs

... Appellant

Versus

Rajinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajesh Bhatheja, Advocate
for the appellant.

AMIT RAWAL, J.

The present regular second appeal is directed against the concurrent findings of fact, whereby the plaintiff has not been successful in setting aside the registered gift deeds dated 10.04.1997 and 11.04.1997, allegedly executed by him in favour of defendant No.1, being grand son of his brother.

It was alleged that the plaintiff had no intention to gift, but had gone to the office of the sub-registrar for the execution of the lease deed, but Rajinder Singh played fraud, rather misrepresented. His thumb-impressions were obtained at the receipt of the deed writer under form on the pretext of execution of the lease deed. There was no occasion for him to execute the aforementioned documents, in view of the living daughter. The mutation was also got sanctioned at his back. The plaintiff only came to know few days back and filed the aforementioned suit.

The defendants opposed the suit stated to be volunteer act of the plaintiff and filing of the suit to be act of greed. Even this fact was in the

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59	<i>To cancel or set aside an instrument or decree or for the rescission of a contract.</i>	<i>Three years.</i>	<i>When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.</i>
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On plain and simple reading of the aforementioned provisions, the plaintiff's case was squarely fall within the parameters of Article 58 of the Limitation Act. It is a common practice amongst the persons to execute the document and thereafter, wriggle out. DW1-Deed Writer, has been examined and he acknowledged to have scribed the gift deeds. In such circumstances, non-examination of the attesting witnesses pales into insignificance.

In this view of the matter, there cannot be any illegality or perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the regular second appeal is dismissed.

18.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**