

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

**RSA No.3281 of 2017 (O&M)
Date of Decision.01.11.2018**

Amar SinghAppellant
Vs
Sat Pal and others ...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikas Garg, Advocate for
Mr. Jaivir S. Chandail, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in seeking declaration challenging the registered mortgage deed dated 04.07.2006 executed in favour of the defendant in lieu of the receipt of ₹6 lakhs.

The case of the plaintiff set out in the plaint was that vide sale deed dated 20.06.2006, he purchased the suit property. However, defendants No.3 and 4 implored upon the plaintiff to thumb mark certain documents and converted into mortgage deed. In fact, plaintiff never received any amount.

The defendants opposed the suit and supported execution of the mortgage being the registered document.

On preponderance of the evidence, the trial Court dismissed the suit and the appeal taken before the lower Appellate Court was also dismissed.

Mr. Vikas Garg for Mr. Jaivir S. Chandail, learned counsel for the appellant submitted that there is gross illegality and perversity as the defendants had not been able to prove payment of

consideration of ₹6 lakhs, even if the mortgage deed was registered document. DDR in this regard was also lodged but of no avail.

I am afraid aforementioned argument of Mr. Garg is not sustainable, as photocopy of the mortgage deed was passed on to this Court during the course of hearing and as per the endorsement made on the back page of the same by the Sub Registrar, amount of ₹6 lakhs was exchanged in favour of the plaintiff. Registered document carries presumption of truth. The plaintiff had not been able to prove ingredients of fraud and misrepresentation as per the provisions of Order 6 Rule 4 CPC, therefore, there cannot be said to be any abdication or illegality.

The appeal is also accompanied by an application seeking condonation of delay 1000 days. No cogent explanation has come forward for delay of 1000 days.

The appeal is dismissed both on the ground of delay as well as on merits.

(AMIT RAWAL)
JUDGE

November 01, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No