

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

RSA No.4192 of 2017 (O&M)

Date of decision:20.11.2018

Gurpreet Singh

... Appellant

Vs.

Leela Devi and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Narinder Kumar Vadehra, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.10889-C of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 44 days in re-filing the appeal is condoned.

C.M. stands allowed.

RSA No.4192 of 2017 (O&M)

The appellant-plaintiff has not been successful in laying challenge to the sale deed dated 02.12.2005 allegedly executed by him in respect of land measuring 176.1/2 square yards consisting of five rooms and boundary wall in favour of defendant no.1 as defendant no.1 had played fraud and mis-representation in execution of the aforementioned document.

It was alleged that plaintiff with the help of his father, had constructed five rooms in which three rooms were on rent with one Kaka

Singh and two rooms were with the labourer. The electric meter was also installed. Defendant no.1-Leela Devi alongwith her husband-Ram Singh visited the house and requested the father of plaintiff that they required some loan for domestic purpose but in the absence of guarantor, could not get the loan. On believing the aforementioned request, plaintiff agreed to become a guarantor but later on, came to know that documents were converted into sale deed.

Defendant no.1 was proceeded against ex parte before the Court below. Defendant no.2 contested the suit by raising various preliminary objections and supported that the sale deed was executed against the valid sale consideration preceded by agreement to sell dated 17.02.2006 executed by defendant no.1. The trial Court dismissed the suit. The appellant was also not successful before the Lower Appellate Court.

Mr. Narinder Kumar Vadhera, learned counsel appearing on behalf of the appellant submitted that both the Courts below have abdicated in dismissing the suit without realising the fact that the ingredients of fraud and mis-representation under Order 6 Rule 4 of Code of Civil Procedure were proved as no consideration was ever passed. The defendants failed to prove the execution of the sale deed and in haste, transferred the property to defendant no.2.

I am afraid the aforementioned argument is not sustainable as no ingredients of fraud and mis-representation had been proved on record. The registered document carried a presumption of truth. The best possible evidence was to summon the concerned officer from the office of Sub-

Registrar to belie the same. The story coined has not been believed. All these factors weighed in the mind of the Courts below while dismissing the suit.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 20, 2018
savita

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