

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA-4480-2017 (O&M)
Date of Decision: 03.08.2018

Jagir Singh

--Appellant

Versus

Surjit Kaur & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Malkeet Singh, Advocate for the appellant.

TEJINDER SINGH DHINDSA.J (Oral)

Plaintiff-appellant is in second appeal before this Court having remained unsuccessful in both the courts below.

Brief facts are that plaintiff filed a suit for declaration to the effect that the sale deed dated 11.6.1992 in favour of Karaj Singh pertaining to the suit property measuring 675 sq. yard is null and void and suit for possession pertaining to the plot in question with consequential relief restraining the defendants from selling, alienating or transferring in any manner the suit property till disposal of the suit.

Case set up by the plaintiff was that Karaj Singh husband of defendant no.1 and father of defendants no.2 to 4 had set up a forged and fabricated sale deed dated 11.6.1992 pertaining to the suit property, whereas he had never executed such sale deed. It was alleged that the sale deed is the result of impersonation and in connivance with Bara Singh and Baldev Singh the alleged witnesses to the sale deed. It was asserted that mutation no.2089 relating to inheritance of Karaj Singh entered in the name of defendants, as such, is illegal.

Suit was contested by the defendants and it was stated in the written statement that plaintiff was the owner of the property in question

and which had been sold to Karaj Singh for a sale consideration amount of Rs.10,000/- vide a valid and registered sale deed dated 9.4.1992. The sale deed stands thumb marked by the plaintiff in presence of witnesses Bara Singh and Baldev Singh and mutation no.2626 had been sanctioned thereupon in the name of Karaj Singh. Upon expiry of Karaj Singh, mutation no.3523 regarding inheritance of late Karaj Singh had been sanctioned in the names of Surjit Kaur widow of late Karaj Singh, Nishan Singh and Rajwant Singh sons of Karaj Singh and Kashmir Kaur daughter of Karaj Singh being the legal representatives. It was further stated that the defendants are continuing to be owners and in possession of the suit property and the plaintiff has no right, title or interest in the plot in question.

Suit filed by the plaintiff was dismissed by the Trial Court on 15.7.2013. Civil Appeal preferred has been dismissed by the learned Additional District Judge, Amritsar vide judgement dated 30.11.2016.

Counsel representing the appellant has contended that once the plaintiff-appellant had asserted that the disputed sale deed dated 11.6.1992 Ex.P-1 was forged and fabricated and did not bear his thumb impressions and had also denied the receipt of consideration amount, burden of proof had shifted on to the defendants/respondents with regard to due execution of the sale deed. It is argued that such aspect has been over looked by the courts below while dismissing the suit filed by the plaintiff-appellant.

In the considered view of this Court the argument raised by counsel for the appellant is not well founded.

Since it was the plaintiff-appellant, who had set up a challenge to the sale deed in question Ex. P-1 and had set up a case that the same was the outcome of fraud and by way of impersonation, onus was upon the

plaintiff to prove on record by leading cogent and convincing evidence that the sale deed dated 11.6.1992 was the result of impersonation and forgery. However, no such evidence had been led.

To the contrary concurrent findings have been recorded by the courts below with regard to due execution of the sale deed dated 11.6.1992 Ex. P-1 in favour of Karaj Singh (since deceased).

Counsel has not been able to demonstrate any patent infirmity or perversity in the findings recorded by the courts below.

There is no merit in the appeal and the same is accordingly dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

03.08.2018
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No