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

R.S.A No. 6060 of 2017 (O&M)

Date of Decision:- 01.11.2018

Maina Devi & Ors

....Appellants

Versus

Subhash & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Vikram Singh, and
Mr. Abhinav Sood, Advocates, for the appellant.

AMIT RAWAL J. (Oral)

Appellants-plaintiffs being legal representatives of Bhoop Singh have not been successful in claiming challenge of the act of Brij Lal, who bequeathed the property registered release deed dated 22.02.2006 in favour of the defendants.

It is contended that Brij lal was kidnapped by the defendants and under that pressure the release deed was executed by depriving their rights. DW-3 in cross-examination admitted possession on some piece of land in favour of the plaintiffs. In fact it was ancestral property at the hands of Brij Lal and could not have been alienated except of legal necessity and recital of this effect already is in release deed. Therefore, there was occasion to led evidence to prove the nature and character of the property to be ancestral. In such circumstances, both the Courts have mis-directed in dismissing the suit. Therefore, there is a falsy.

I am afraid that the afore-mentioned argument made by

Mr. Vikram Singh, learned counsel appearing for the appellants is not sustainable as, as per record Brij Lal after execution of the release deed had died after four years i.e. in the year 2010 whereas the present suit was filed in the year 2012. In the absence of nature and character of property being ancestral an adverse inference is to be drawn it was self-acquired property. The family of the son cannot lay challenge as it is the choice of the owner of the property to deal in any manner. Brij Lal remained alive for four years after the execution agreement and if at all a fraud had been played upon him there would have been challenge. Even after his death suit was not filed for two years. All these facts are led to the dismissal of the appeal.

The appeal does not involve any substantial question of law and is accordingly dismissed.

November 01, 2018
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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No