

\$~SC-10 & 11

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RFA 187/2013

RASHI SETHI

..... Appellant

Through: None.

versus

CHANCHAL RANI SEHGAL AND ANR.

..... Respondents

Through: None.

+ RFA 188/2013

RASHI SETHI

..... Appellant

Through: None.

versus

CHANCHAL RANI SEHGAL & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **23.08.2018**

1. These are two Regular First Appeals under Section 96 of Code of Civil Procedure, 1908 (CPC) against the common judgment of the Trial Court dated 21.2.2013 by which trial court decreed the suit for possession etc filed by the respondent no.1/plaintiff/mother/Smt. Chanchal Rani Sehgal

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and dismissed the suit for possession filed by the appellant/Smt. Rashi Sethi/daughter. Two counter suits were filed by the parties against each other with respect to the property being H. No.130, Pocket B-4, Sector-7, Rohini, Delhi-110085

2. The daughter Smt. Rashi Sethi pleaded that the suit property was sold to her by the mother Smt. Chanchal Rani Sehgal for a consideration of Rs.10.70 lacs and a Sale Deed dated 16.2.2009 was executed by the mother Smt. Chanchal Rani Sehgal in favour of Smt. Rashi Sethi. The case of the mother Smt. Chanchal Rani Sehgal was that her daughter asked her to come to the Sub Registrar because the mother was to stand as a guarantee for daughter, and the mother who is an illiterate widow studied upto 2nd/3rd class, was made to put her signatures on papers which actually subsequently turned out to be a sale deed dated 16.2.2009 and thus a fraud was played upon Smt. Chanchal Rani Sehgal and that there is no valid sale transaction of the suit property in favour of Smt. Rashi Sethi/daughter.

3. Trial court has given detailed reasoning for allowing the suit filed by the mother and has dismissed the suit filed by the daughter, including observing that the payment of sale consideration of Rs.10.70 lacs

is said to be in cash but this is not proved especially because the husband of Smt. Rashi Sethi gave this amount after allegedly taking loan from two persons, namely Sh. Vinod Singhala and Sh. Gaurav Singhala but no such details were given in the pleadings of Smt. Rashi Sethi. I would also like to add that Sh. Vinod Singhala and Sh. Gaurav Singhala have not been examined by Smt. Rashi Sethi to prove that her husband received loan of Rs.10 lacs from Sh. Vinod Singhala and Sh. Gaurav Singhala. Trial court has *prima facie* rightly held that there was a fraud played upon the mother and the sale deed was executed by undue influence. Trial court has also held that sale transaction was kept completely secret from the other family members including the son of Smt. Chanchal Rani Sehgal and the daughter in law of Smt. Chanchal Rani Sehgal, and with which persons Smt. Chanchal Rani Sehgal was living at the time of the execution of the alleged sale deed. Also trial court has held that the sale transaction was not discussed with any member of the family or even with the mother Smt. Chanchal Rani Sehgal or even with any third person before execution of such Sale Deed dated 16.2.2009. Trial court has also *prima facie* rightly observed that the Sale Deed talks of need for selling of the suit property by

the mother to the daughter but no such need was pleaded and proved by Smt. Rashi Sethi and her husband and son who appeared as witnesses with her.

4. Since no one appears for the appellant, these appeals are dismissed in default and for non-prosecution. Let no application for restoration/recall of this order be entertained unless costs of Rs.25,000/- for each of the appeals are first paid to the respondent no.1/Smt. Chanchal Rani Sehgal.

VALMIKI J. MEHTA, J

AUGUST 23, 2018

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