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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/1/2019 18:35
I attest to the accuracy and
authenticity of this document

CRM-M-1693-2019 (O/M)
Date of decision : 23.1.2019

Smt. Kaushalya Devi Petitioner (s)
Versus
Kishan Chand Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Nipun Vashisht, Advocate,
for petitioner.

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KULDIP SINGH, J. (ORAL)

Heard. Petitioner has challenged order dated 1.12.2018 (Annexure-P-2), passed by learned Additional Sessions Judge, Gurugram, whereby summoning order dated 25.1.2018, passed by learned Judicial Magistrate 1st Class, Sohana, District Gurugram, summoning accused respondent under Section 420 IPC, was set aside and complaint was dismissed.

One Kaushalya Devi, whose date of birth is stated to be 7.8.1964, filed a complaint on 29.1.2016, claiming that family of complainant has property in Revenue Estate of Sohana from the year 1980. The family members of complainant sold their 7/8 share in said property to Smt. Angoori Devi wife of Bal Krishan, vide sale deed No. 2037, dated 9.7.1980, through accused-respondent Kishan Chand who is cousin of complainant and was looking after property. It is stated that accused respondent Kishan Chand obtained thumb impressions of family members of complainant on some blank papers and got sale deed dated 9.7.1980 registered. Accused respondent further in collusion with Aaram, Sewa Singh Nambardar and Satya Bhan, Advocate, hatched a conspiracy and got registered sale deed No. 2447, dated 1.8.1980 in his favour regarding share

of complainant. Mutation No. 33/63 dated 6.9.1980 was also sanctioned in pursuance to said sale deed. Complainant claims that she was minor at that time. Her property could not be alienated without permission of Court. She further claims that another lady was produced in her place at the time of mutation.

Trial Court recorded preliminary evidence in which she examined herself and her brother Jagdish and closed preliminary evidence.

After going through statements and documents, impugned order was passed.

Accused respondent Kishan Chand being aggrieved by said order challenged same before learned Additional Sessions Judge, Gurugram who set aside same.

I have heard learned counsel for petitioner and have also carefully gone through file.

I am of view that learned Additional Sessions Judge, Gurugram, took right view of the matter. The disputed sale deed was executed on 1.8.1980 allegedly by Kishan Chand (respondent) on behalf of petitioner, who was then 16 years of age. She became major two years later in the year 1982. From year 1982 till year 2016 i.e. next 34 years, petitioner did not challenge sale deed, nor she claims that mutation has been wrongly sanctioned by producing some impostor. Once sale deed is executed even if some impostor was produced, revenue authorities are supposed to get legal record transferred in terms of sale deed. However, if petitioner claims that some impostor was produced, she should have produced some technical evidence to establish that some impostor was produced and she did not appear. She merely examined herself and her brother Jagdish to prove the assertion. In my view, said evidence is

insufficient to hold that some impostor was produced at the time of mutation on 1.8.1980 which was otherwise required to be entered into sale deed. Complaint has been filed after 34 years i.e. in year 2016, on which date petitioner has already become major. It is nothing but misuse of process of Court. Therefore, learned Additional Sessions Judge, Gurugram, interfered to set aside summoning order and dismissed complaint which was otherwise liable to be quashed by this Court. There is no ground to interfere in impugned order. Petition is therefore dismissed.

(KULDIP SINGH)
JUDGE

23.1.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No