

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-4231-2019 (O&M)

Date of decision: 13.09.2019

Pushpa Devi

..... Appellant

Versus

Parshotam Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Munish Puri, Advocate for the appellant.

RAMENDRA JAIN, (ORAL)

Through this regular second appeal, appellant-plaintiff has laid challenge to judgment and decree of lower Appellate Court dated 19.07.2019, reversing judgment and decree of trial Court dated 26.10.2018, in her favour.

Briefly, appellant-plaintiff filed a suit to declare sale deed dated 12.12.2014, allegedly executed and registered by her in favour of respondent-defendant No.1-Parshotam Lal, as illegal and a bogus document and that she was owner in possession of suit property, fully detailed in the head note of judgment of trial Court.

Learned trial Court after holding trial, decreed the suit in favour of appellant-plaintiff in *toto*, vide judgment and decree dated 26.10.2018, broadly holding that she, being an old lady of around 80 years of age, was cheated by respondent No.1 and, thus, aforesaid sale deed was not binding

upon her, whereby she allegedly sold the suit property to him.

Being aggrieved, respondent-defendant No. 1 approached the lower Appellate Court.

Accepting his appeal vide impugned judgment and decree dated 19.07.2019, Appellate Court declared the aforesaid sale deed dated 12.12.2014, as a valid one.

Learned counsel for the appellant-plaintiff *inter alia* contends that lower Appellate Court has illegally set aside well reasoned judgment of trial Court, ignoring the fact that appellant-plaintiff in such a advance age of 80 years, was unable to understand her good or bad. Sale deed dated 12.12.2014 was got executed from her by respondent No.1, exercising undue influence and committing fraud, under the garb of execution of a mortgage deed. The Appellate Court failed to appreciate that allegations of fraud and misrepresentation were levelled against respondent-defendant No. 1, but he could not remove the clouds of forgery, misrepresentation and fraud from his head. In support of his contentions, learned counsel for the appellant has relied upon judgments in (i) **Mst. Kharbuja Kuer Vs. Jangbahadur Rai and others**, 1963 AIR (SC) 1203; (ii) **Sujan Kaur Vs. Chand Singh**, 2003(3) RCR (Civil) 660; (iii) **Jagi Majhi (since dead) through LR Vs. Srimat Hansda**, 2018(1) Ori. Law Rev. 406; (iv) **Brundaban Misra Vs. Iswar Swain and others**, 1983 AIR(Orissa) 172 and (v) **Rankanidhi Sahu Vs. Nandakishor Sahu**, 1990 AIR (Orissa) 64.

Having given thoughtful consideration to the submissions of learned counsel for the appellant, this Court finds the instant appeal merits dismissal for the reasons to follow.

Undisputedly, sale deed dated 12.12.2014 (Ex.-P1/A) is a registered document, duly executed in the presence of own daughter and

son-in-law of plaintiff-appellant, who even attested the same. Thus, the sale deed in question cannot be termed as “surrounded with suspicious circumstances”. As far as, pleading of appellant-plaintiff that vendee-Parshotam Lal, her daughter and son-in-law, in connivance of each other, exercised undue influence upon her is concerned, this Court finds the same completely devoid of any merit, inasmuch as, they are residents of different villages. Therefore, hatching of any conspiracy by them against appellant-plaintiff was not possible.

Burden to prove that the impugned sale deed dated 12.12.2014 was got executed by respondent-defendant No. 1-Purshotam Lal in his favour, fraudulently, exercising undue influence was upon the appellant-plaintiff, but, she miserably failed to discharge the same. The appellant-plaintiff was required to produce some concrete evidence in support of her above assertion before the trial Court. But, instead, she closed her evidence after tendering sale deed dated 12.12.2014 Ex. P1/A and copy of FIR Ex. PX, only without leading any evidence.

A perusal of the record shows that DW-1 Mangal Singh, scribe of the sale deed, was recalled for cross-examination by learned counsel for the plaintiff. He was cross-examined at length, but nothing favourable to the appellant-plaintiff could be extracted from his mouth. Rather, this witness proved the entry in his register at serial No. 375 dated 12.12.2014 at page No. 250, pertaining to aforesaid sale deed executed by the plaintiff.

It is well settled proposition of law that allegations of fraud and misrepresentation, even in civil cases are to be proved like a criminal charge, which the appellant-plaintiff has miserably failed to prove against respondent No.1.

From over all facts and circumstances of the case, it is apparent that appellant-plaintiff under some ill advise or taking advantage of her old age, levelling false allegation of fraud and misrepresentation against respondent No. 1, who parted with ₹6,50,000/- for purchasing suit property tried to usurp the legal right of respondent-defendant.

It is worth mentioning that office of Sub Registrar is mostly situated nearby the Court Complex. Even there is always huge rush of general public. Therefore there was no possibility of any alleged fraud being committed by the respondent-defendant in the presence of huge general public in or around the office of Sub Registrar.

Except the bald statement of appellant-plaintiff that the impugned sale deed was executed from her by respondent No. 1, under undue influence or committing fraud and misrepresentation, there is nothing on record to support her. Thus, lower Appellate Court has rightly discarded her claim.

No question of law, much less substantial, has been raised in this appeal. Hence, the same is held not maintainable.

Facts and circumstances of the judgments relied upon by learned counsel for the appellant are quite distinguishable from the facts of instant case, therefore, no benefit whatsoever of the same can be given to the appellant.

Dismissed.

September 13, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No