

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

207

RSA-3510-2012 (O&M)

Date of decision: 24.10.2019

SONA DEVI AND ORS

... Appellants

Versus

SUBE SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Rajesh Bansal, Advocate for the appellants.

Mr. Gurminder Singh Dhull, Advocate for
Mr. BS Bhalla, Advocate for respondents No.1 to 5.

Mr. Wazir Singh, Advocate for respondent No.6.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for declaration with consequential relief of permanent injunction to assail sale deed No.6601 dated 29.12.1989 in respect of land measuring 19 kanal 18 marlas and No.5032 dated 19.12.1990 in respect of land measuring 13 kanal 16 marlas being the result of fraud and misrepresentation and got executed on the pretext of mortgage of the aforesaid land by the plaintiff/appellant since deceased represented by his LRs was dismissed by the trial Court vide judgment and decree dated 29.07.2010 that came to be affirmed in appeal by the Additional District Judge, Panipat.

Counsel for the appellants would argue that sale deeds in question are purported to be attested by one of the sons of Sh. Babbar Bhan but he was minor at the time of execution of sale deeds. It is further argued that Hari Kishan son of Ram Ji Lal DW1 and Krishana Devi DW2 examined by the respondents/defendants have admitted that Babbar Bhan wanted to mortgage his land and on the pretext of mortgage, Tara Chand defendant No.3 fraudulently got the disputed sale deeds executed from Babbar Bhan by taking advantage of his illiteracy and being a rustic villager.

Counsel representing respondents No.1 to 6 have supported concurrent findings recorded by the Courts with the submission that both the Courts, on detailed consideration of materials on record including testimonies of Hari Kishan and Krishna Devi DW1 and DW2 respectively, have rightly negated plea of the appellant/plaintiff that sale deeds in question are the result of fraud or misrepresentation. It is further argued that counsel for the appellants has failed to point out, if consistent findings recorded by the Courts suffer from perversity or raise a question of law that needs determination in second appeal. The last submission made by counsel is that allegations with regard to fraud are required to be proved akin to a criminal charge but the appellant has miserably failed to discharge his legal obligation in this regard.

I have heard counsel for the parties, perused the paper book and records.

Before advertng to the submissions made by counsel for the parties, it is pertinent to mention that consistent factual findings recorded by the Courts cannot be intervened simply because a different view is possible, on re-appreciation of evidence. Counsel for the appellant has sought to rely upon testimonies of Hari Kishan and Krishna Devi DW1 and DW2 respectively in support of contention that sale deeds are the result of fraud/misrepresentation. The trial Court has noticed that Krishna Devi DW2 had every reason to depose against Tara Chand as her husband had litigation with defendant No.3. Hari Kishan DW1 has deposed about the fraud in view of that notice under Section 160 Cr.P.C. was received by him from the police. Hari Kishan has deposed that Tara Chand is in the habit of committing fraud with people. Counsel for the appellants, in response to a query, would fairly inform that there is no such material on record that Tara Chand had ever been involved in civil or criminal proceedings with regard to committing fraud with any person. Counsel for the appellants has expressed his inability to say what happened to the criminal proceedings that appears to have been lodged by the appellants against Tara Chand. I do not find an error in consistent findings of the Courts by rejecting contention of the appellants on the basis of statements of Hari Kishan and Krishna Devi DW1 and DW2 respectively whose testimonies are not worthy of credence

and reliance.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed with costs.

24.10.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No