

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

RSA No.2051 of 2016 (O&M)
Date of Decision.08.03.2019

Amrik Singh

...Appellant

Vs

Mohan Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Parambir Singh Sunny, Advocate
for the appellant.

:-

AMIT RAWAL J. (ORAL)

The present regular second appeal is directed against the concurrent finding of fact whereby the appellant-plaintiff has not been successful in laying challenge to the sale deed dated 2.6.2011 purportedly executed by defendant No.1, his father in favour of defendants No.2 and 3 on the basis of fraud and misrepresentation and therefore, had no right and defendants No.2 and 3 in connivance obtained sale deed in their favour.

Defendants opposed the suit and defendants No.2 and 3 claimed to be bona fide purchasers for valuable consideration. Injunction suit filed by the plaintiff had already been dismissed vide judgment and decree dated 24.12.2010, thus, raised objection of *res judicata*.

Plaintiff Amrik Singh examined himself as PW1, Gurdip Singh as PW2, Vijay Kumar as PW3 and tendered documents Ex.P1 to P6 and Mark A to Mark M. On the other hand, defendants examined five witnesses and tendered documents Ex.D1 to D3.

Learned counsel appearing on behalf of the appellants

submitted that DW4 and DW5 admitted in the evidence that Mohan Singh was confined to bed and was unwell, therefore, suspicious circumstance, much less, act of fraud cannot be ruled out.

I am afraid aforementioned argument is not sustainable for the reason that it has not come on record when Mohan Singh died or whether he filed the written statement. Memo of parties in the plaint and the appeal reflect that he was made a party, though lower Appellate Court recorded that he died. Even no effort was made to bring on record legal representatives. Be that as it may, the ingredients of fraud and misrepresentation have not been proved to the hilt by placing on record any medical evidence or examination of the Registrar whether Mohan Singh was weak and fragile or somebody else impersonated him.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 08, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No