

RSA-3875-2016 (O&M)

119

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

RSA-3875-2016 (O&M)

Date of decision : 04.02.2019

Amarjit Singh and another

... Appellants

Versus

Naib Kaur (deceased) through LRs

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Naresh Kaushal, Advocate
for the appellants.

Mr. R.S. Sekhon, Advocate
for the cavetor/respondent.

AMIT RAWAL, J. (ORAL)

The appellants-defendants have not been successful in defending the suit for declaration by challenging the sale deed dated 09.05.2012 in respect of land measuring 2 kanals 18 marlas 2 sarsahi out of 22 kanals 17 marlas, allegedly executed by the plaintiff (since deceased), which has been decreed by the trial Court and affirmed in appeal.

The plaintiff being old, simple and illiterate villager woman stated that that she had five children and out of them, two daughters had already expired and three children, two sons and one daughter, were living at different places. She wanted to execute a Will in favour of the daughter, but the defendants being nephew agreed to help her to execute and register the Will and had taken her to the office of Sub-Registrar, which came out to a sale deed, which was never intended to. It is a result of fraud and misrepresentation.

The defendants supported the sale deed and stated that a sum of

RSA-3875-2016 (O&M)

₹32,75,000/- was paid. It was a total case of greed and nothing else.

Learned counsel for the appellants-defendants submitted that the bank account statements (Ex.D1 to Ex.D9), brought on record established that the appellants-defendants had withdrawn the amount from the account and paid to the vendee/plaintiff. The typist had entered the sale deed in register and thumb-marked also. This has been proved through the testimony of DW2 and DW3. The registered document carried a presumption of truth. The filing of the suit is nothing, but an act of aggrandizement.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, Ex.D1 to D9, bank account statements, did not reflect the withdrawal of the amount of ₹32,75,000/-. If at all, there was an actual transaction that the plaintiff/respondent had intended to sell the property, there would not have any difficulty for the defendant/appellant to prove the payment. No receipt of any amount has been brought on record. I cannot remain unmindful of the fact that the suit was filed on 14.03.2013, just within the short period of ten months. All these factors were weighed in the mind of the Courts below while decreeing the suit of the plaintiff.

In this view of the matter, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeal is dismissed.

04.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No