

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

**RSA No.3432 of 2015 (O&M)
Date of Decision.15.01.2019**

Kashmir Singh (deceased) through LRs ...Appellant

Vs

Karnail Singh and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Nakul Sharma, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The present regular second appeal is directed against the judgments and decrees of both the Courts below whereby plaintiffs had not been successful in challenging the sale deed dated 20.06.2002 allegedly executed by him in favour of defendant, as a result of fraud, undue influence and misrepresentation on the ground that land measuring 2 kanals comprised of Killa No.22 was never in his possession whereas defendant is none else but the nephew of plaintiff, Kashmir Singh, being clever person played undue influence, resulting into aforementioned sale deed. In fact, 2 kanals of land was already sold to one Shawinder Singh son of Rachhpal Singh vide sale deed dated 01.07.2002. The sale deed under challenge was said to be without consideration nor any possession was delivered.

Defendant opposed the suit and defended the sale deed being a registered document. They came out with defence of registration of FIR No.110/05 against the plaintiff. It was alleged that the suit was barred by limitation as it was filed in 2005.

Mr. Nakul Sharma, learned counsel appearing on behalf

of the appellants submitted that there was a litigation between Shawinder Singh, Karnail Singh-defendant and Kashmir Singh-plaintiff in civil suit No.278/2002 whereby declaration was sought with regard to 2 kanals of land on the basis of sale deed dated 01.07.2002. The said suit has been decreed and appeal preferred before the lower Appellate Court was also dismissed on 04.11.2015. The Courts below committed illegality and perversity in not noting on file the aforementioned judgments and decrees, therefore, it is a fit case for decretal of the suit.

I am afraid aforementioned argument is not sustainable, for, the judgments and decrees referred to above only pertain to 2 kanals of land. Sale deed in question dated 01.07.2002 in respect of remaining 8 kanals has not been set aside, in fact remains intact. Plaintiff has not been able to prove ingredients of Order 6 Rule 4 CPC by way of direct and cogent evidence i.e. undue influence, fraud and misrepresentation. The suit was filed in 2005. It appears to be an act of aggrandizement.

In view of the aforementioned circumstances, arguments of Mr. Sharma have not been able to bring the case within the realm of illegality and perversity, 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

January 15, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No