

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

RSA No.1899 of 2018 (O&M)

Date of decision : 14.02.2019

Bhavishan Singh

...Appellant

Versus

Maingal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Binderjit Singh, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

Plaintiff had filed a suit for declaration, joint possession and permanent injunction claiming that he is owner of 1/3rd share in the suit land and writing dated 15.03.2005 is illegal, null and void.

It may be noted that a litigation was pending between plaintiff and defendant Nos.1 to 12. Parties after sometime, resolved their dispute and entered into a compromise on 04.03.2005 which was filed in the Lok Adalat. After entering into a compromise, another compromise was prepared and signed by the parties with respect to the property which was not subject matter of previous suit. This writing is thumb marked by the plaintiff.

Plaintiff in order to prove fraud, as alleged, has examined PW2 Tar Singh, Nambardar who when appeared in evidence has admitted that he

signed the writing dated 15.03.2005 after admitting the correctness of the writing. Since, the witness examined by the plaintiff himself admits the correctness of the compromise and his signatures, the Courts below have not committed any error in arriving at concurrent finding. In order to prove fraud, onus is very heavy on the party which alleges fraud. Standard of proof required is equivalent to proving a criminal charge which provides that commission of offence has to be proved beyond any reasonable doubt.

In view of the admission made by the witness who has been examined by the plaintiff, the Courts have rightly held that the plea of fraud has not been substantiated.

In view thereof, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

14.02.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No