

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

**RSA No.2883 of 2017 (O&M)**

**Date of Decision.06.05.2019**

Sumer Singh (since deceased) through LRs ...Appellant

Vs

Rakesh Yadav and another ...Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. S.S. Sahu, Advocate  
for the appellant.

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**AMIT RAWAL J. (ORAL)**

**C.M. No.7182-C of 2017**

For the reasons stated in the application, delay of 28 days  
in re-filing of the appeal is condoned.

Application is allowed.

**RSA No.2883 of 2017**

The appellant-plaintiff is in regular second appeal against  
the concurrent finding of fact whereby suit for declaration and  
challenging the registered gift deed dated 29.06.2006 executed by him  
and pro forma defendant No.2 in favour of defendant No.1 has been  
dismissed by the trial Court and affirmed in appeal.

It was asserted that both the plaintiff and pro forma  
defendant intended to execute the Will in favour of defendant No.1 and  
had gone to the office of Registrar but being a clever person committed  
a fraud and obtained the gift deed of land measuring 2 kanals 9 marlas.  
On acquiring knowledge of the same, suit aforementioned was filed.

Defendant opposed the suit and in the written statement  
asserted that it was an volunteer act and institution of suit is nothing but  
an act of aggrandizement. The gift deed was written by a deed writer

and attested by an advocate.

Both the parties led in extensive evidence.

Mr. Sahu, learned counsel appearing on behalf of the appellants submitted that this is only land of the plaintiff and pro forma defendant, therefore, there was no question of transferring or alienation by way of gift as they had two living children. Possession is still with the appellant.

I am afraid aforementioned argument is not sustainable for the simple reason that no evidence with regard to possession of plaintiff has been placed on record. The story coined in the suit is not acceptable for the reason that once the plaintiff had two children, what was the reason to execute a Will in favour of defendant No.1. Filing of suit is nothing but an act of greed to wriggle out of the same.

In view of such circumstances, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below, 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**

**May 06, 2019**  
Pankaj\*

Whether speaking/reasoned      Yes

Whether reportable      No