

RSA No.650 of 2017 (O&M)

{1}

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

**RSA No.650 of 2017 (O&M)
Date of decision:29.01.2019**

Sukhwinder Singh @ Balbir Singh

... Appellant(s)

Vs.

Jagdev Singh @ Avtar Singh

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajiv Joshi, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The present Regular Second Appeal is directed against the concurrent findings of fact and law whereby suit for declaration to be owner to the extent of ½ share in respect of suit land after declaring the alleged transfer deed executed in favour of Jagdev Singh, was dismissed by the trial Court and affirmed in appeal.

It was alleged that Karnail Singh died intestate and on his demise, the land was mutated in the name of his two sons Sukhwinder Singh and Jagdev Singh and widow Sukhdev Kaur. During the life time, Sukhdev Kaur executed a transfer deed dated 22.08.2005 qua her share in favour of Jagdev Singh. The defendant opposed the suit and stated that it was a voluntary act.

The plaintiff in support of the aforementioned pleadings examined himself as PW1, whereas, defendants examined four witnesses and also tendered into evidence, jamabandi for the year 2006-07, Ex.D24.

Mr. Rajiv Joshi, learned counsel appearing on behalf of the appellant-plaintiff submitted that Jagdev Singh-defendant wielded undue influence upon Sukhdev Kaur to execute the transfer deed as she had been residing with the defendant. The love and affection of Karnail Singh was almost lost. The alleged recital of taking care of the mother through the testimony of the witnesses had been proved to be incorrect.

I have heard the learned counsel for the appellant-plaintiff, appraised the judgments and decrees as well as record of both the Courts below and of the view that there is no force and merit in the submissions of Mr. Rajiv Joshi, for, concededly, the defendant was residing abroad. The element of influence and mis-representation could not have been introduced. The transfer deed was pertaining to the share of Sukhdev Kaur which was self-acquired property being absolute owner. In such circumstances, the plaintiff could not claim as ingredients of Order 6 Rule 4 CPC had not been proved. No evidence with regard to nature and character of the property as ancestral has been led.

As an upshot of my findings, no ground for interference is made out. Resultantly, the regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 29, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No