

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

RSA No.4544 of 2019 (O&M)

Date of decision: 14th July, 2022

Satnam Singh

... Appellant

Versus

Jagdeep Singh & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Brijesh Nandan, Advocate for the appellant.

MANJARI NEHRU KAUL, J.

Vide judgment and decree dated 21.12.2016, the suit filed by the plaintiff was dismissed by the trial Court. The appeal preferred against the said decree also met the same fate and was dismissed by the appellate Court on 19.07.2019. The plaintiff is thus now in Regular Second Appeal before this Court. The parties to the *lis* hereinafter shall be referred to by their original position in the suit.

The pleaded case of the plaintiff while filing the suit for declaration was that a sale deed dated 26.06.2006 executed by his late brother, Jagroop Singh in respect of land measuring 3 Kanals 2 Marlas (hereinafter referred to as, 'suit property'), as detailed in the head note of the plaint, was illegal, contrary to the principles of law, void ab-initio, without any sale consideration and a result of fraud played upon Jagroop Singh by defendants No.1 and 2. The plaintiff also sought relief of joint

possession in respect of the suit land along with relief of permanent injunction to restrain defendant No.1 from alienating the suit property. It was alleged by the plaintiff that Jagroop Singh, his deceased brother died issueless and had, in fact never executed any sale deed dated 26.06.2006 in favour of defendant No.1. Defendant No.1 had connived with his mother and prepared a false, fictitious and fabricated sale deed dated 26.06.2006 in respect of the suit land owned by late Jagroop Singh. The plaintiff thus claimed that he was entitled to the extent of his share in the suit property.

The defendants filed their written statement and did not dispute the inter-se relationship between the parties. However they vehemently denied the allegations levelled by the plaintiff qua the sale deed in question being a false and fabricated document. It was contended that late Jagroop Singh, while in sound disposing mind, had sold the suit land for a valuable consideration of ₹ 1,12,000/- vide registered sale deed dated 26.06.2006 in favour of defendant No.1 and thereafter delivered physical cultivating possession of the land in question to the defendant No.1, as a result of which he was now in possession of the suit land ever since 26.06.2006, i.e. the date of sale deed. It was further submitted that the plaintiff was well aware about the execution of the aforementioned sale deed and had never objected to it which found support from the fact that he had himself produced and filed the said sale deed in an earlier litigation before the courts. The defendants also contended that had it

been a case of forgery and fabrication of the sale deed as alleged by the plaintiff, the vendor late Jagroop Singh during his lifetime would not have kept quiet but would have at least challenged the sale deed in question which admittedly was not done.

On the basis of pleadings and other evidence led by the parties, the trial Court dismissed the suit of the plaintiff. The learned appellate Court upheld the findings recorded by the trial Court. hence, the instant appeal.

Learned counsel for the appellant while impugning the concurrent findings recorded by the courts below has reiterated his pleaded case. Learned counsel submits that since late Jagroop Singh was a simple man, not well versed with the nitty-gritty of laws, he continued cultivating the suit land, and the defendants intentionally did not stop him from doing so as otherwise he would have come to know about the fraud played upon him qua the suit property. Learned counsel vehemently argued that all the aforementioned circumstances would have to be appreciated in the background that the defendants had even failed to prove by way of any cogent evidence that money was ever paid with respect to the sale of the suit property.

I have heard learned counsel for the appellant and perused the relevant material on record.

The onus to prove that the sale deed in question with respect to the suit land was a forged and fabricated document, was on the

plaintiff. It would be relevant to observe here that as per the plaintiff, late Jagroop Singh was a simple man who had been taken for a ride by the defendants since the former was not well versed with the nitty-gritty of laws. However, the case of the plaintiff stands falsified from the evidence of not only PW2 Balwinder Kaur but from his own evidence as well. PW2 Balwinder Kaur in her cross-examination admitted that not only was late Jagroop Singh a person of sound disposing mind but was well aware about what was good or bad for him. Further, PW2 Balwinder Kaur in her deposition feigned complete ignorance as to whether the sale deed in question was executed by late Jagroop Singh during his lifetime or not. The defendants on the other hand were successful and duly proved the execution of the sale deed in question dated 26.06.2006 by late Jagroop Singh. Deed Writer Sulakhan Singh Kang, who stepped into the witness box as DW2, categorically deposed that the sale deed was signed/thumb marked by both the parties i.e. late Jagroop Singh and the defendant in his presence. It would also be pertinent to mention that one of the attesting witnesses to the sale deed i.e. DW3 Gurnam Singh Nambardar also corroborated that both the parties had signed and thumb-marked the sale deed in his presence. Still further and most importantly, the sale deed in question is a registered document bearing the photograph of the executant Jagroop Singh and the witnesses which clinchingly establishes that late Jagroop Singh did appear before the Sub-Registrar for registration of the document. A presumption of truth qua the sale deed

being a valid document would have to be drawn in the wake of the settled law in the said regard. This Court thus concurs with the findings recorded by the courts below and does not find any error in them.

On being pointedly asked, learned counsel has failed to bring to the notice of this Court any material on record from which it could be inferred that the conclusions drawn by both the courts below were either contrary to the record or suffered from any material illegality. In view thereof, the appeal being devoid of any merit stands dismissed in limine.

(MANJARI NEHRU KAUL)
JUDGE

July 14, 2022
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No