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

**RSA-5446-2019 (O&M)
Reserved on : 14.09.2022
Date of decision : 28.09.2022**

Geeta (deceased) through LR

....Appellant

Versus

Bhagwan Balmiki Mandir and Dharamshala
Parbhandhak Committee (Regd.)

...Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Naresh Gopal Sharma, Advocate for appellant.

ALKA SARIN, J.

The present regular second appeal has been preferred by the plaintiff-appellant against the concurrent findings of both the Courts below dismissing her suit by way of the impugned judgments and decrees dated 01.10.2015 and 29.07.2019.

The brief facts relevant to the present *lis* are that the plaintiff-appellant filed a civil suit for grant of a decree of declaration to the effect that the plaintiff-appellant had not executed gift deed bearing Vasika No.13096 dated 24.10.2007 registered with the office of Sub Registrar, Ludhiana with regard to gift of her property/house built on plot measuring 24 sq. yards, comprised in Khasra No.388-395/1, Khewat No.1151-1153, Khatauni No.1267, 1268, 1270, 1271 as per jamabandi for the year 2003-2004 of Village Jawaddi, Hadbast No.160, Tehsil and District Ludhiana and

it was a result of fraud and misrepresentation and the subsequent mutation No.21121 sanctioned on the basis of the gift deed was also null and void.

It was averred in the plaint that the plaintiff-appellant was a widow, issueless and an uneducated lady who had retired as Sweeper from the Municipal Corporation, Ludhiana. It was further averred in the plaint that the plaintiff-appellant was being looked after by one Sunita and that she treated Sunita as a daughter and wanted to gift her property to Sunita for the services rendered. It was further averred that one Sethi Ram was contacted by her who claimed himself to be the Chairman of the defendant-respondent/Society. She narrated her desire to gift the property to the said Sunita. For the purpose, Sethi Ram got her signatures on some papers and also took her to the office of the Sub Registrar, Ludhiana under false representation that the gift deed was being executed in favour of Sunita, her thumb-impression was obtained on the present gift deed. It was further averred that a coloured photocopy of the gift deed was given to the plaintiff-appellant to keep in safe custody who, treating it as the original, kept it with her. About a month before the filing of the suit she came to know that the gift deed had been executed in favour of the defendant-respondent.

On notice, the suit was contested and it was averred that the property in dispute had been gifted by the plaintiff-appellant to the defendant-respondent/Society through a gift deed dated 19.10.2007 bearing Vasika No.13096 dated 24.10.2007 duly registered with the office of Sub Registrar, Ludhiana and that the mutation had also been sanctioned on the basis of the said gift deed.

On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is entitled to the decree of declaration as prayed for ? OPP
2. Whether the said gift deed is nothing but a result of fraud and misrepresentation and is forged and fabricated document not binding upon the rights of the plaintiff ? OPP
3. Whether the subsequent mutation No.21121 sanctioned on the basis of said gift deed is null and void ? OPP
4. Whether the plaintiff is entitled to decree for permanent injunction ? OPP
5. Whether the plaintiff has not come to the court with clean hands ? OPD
6. Whether the suit of the plaintiff is not maintainable ? OPD
7. Whether the suit is bad for mis-joinder ? OPD
8. Relief.

The Trial Court vide impugned judgment and decree dated 01.10.2015 dismissed the suit filed by the plaintiff-appellant holding that the execution of the gift deed dated 19.10.2007 stood duly proved. Aggrieved by the said judgment and decree, an appeal was preferred which was also dismissed on 29.07.2019. Hence, the present regular second appeal.

Learned counsel for the plaintiff-appellant would contend that a total fraud had been played upon the plaintiff-appellant who was an uneducated lady. He would further contend that the plaintiff-appellant was misled into believing that the gift deed was being executed in favour of

Sunita.

Heard.

In the present case though the suit had been filed on the ground that the gift deed bearing Vasika No.13096 dated 24.10.2007 was a result of fraud and misrepresentation, however, no evidence was led regarding fraud and misrepresentation as alleged by the plaintiff-appellant in the plaint. The only witness who appeared in the witness box on behalf of the plaintiff-appellant was Sunita, legal representative of the plaintiff (Geeta) as PW1 who reiterated the version of the suit. DW2, Yado Ram, stated that the gift deed dated 19.10.2007 was a voluntarily act on the part of the plaintiff-appellant and was executed in his presence and that the plaintiff-appellant had put her thumb-impression in his presence. Thereafter, he had also signed the said gift deed (Ex.D2). Despite cross-examination, the testimony of the said witness could not be shaken. The gift deed is a registered document and presumption of truth attaches to a registered document unless the person challenging the same is able to show that the same was a result of some fraud and misrepresentation. In the present case there is not an iota of evidence on the record to show that there was any fraud or misrepresentation. The gift deed has been executed in favour of the registered society (defendant-respondent) and not in favour of an individual person.

No other argument has been raised by learned counsel for the plaintiff-appellant.

In view of the concurrent findings of fact returned by both the Trial Court and the lower Appellate Court, I do not find any illegality or infirmity in the judgments and decrees passed by both the Courts below. No

question of law, much less substantial question of law, arises in the present appeal. The regular second appeal which is devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

28.09.2022

Yogesh Sharma

**(ALKA SARIN)
JUDGE**

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO