

232 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7959-2017
Decided on : 19.01.2023

Jai Parkash

..... Petitioner

Versus

Inder Singh and other

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sumit Sangwan, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Petitioner is seeking setting aside of judgment dated 17.01.2017 (Annexure P-1) vide which the revision petition filed by him challenging the order dated 29.05.2015 (Annexure P-2) was dismissed by the Court below.

Learned counsel for the petitioner submits that both the Courts below gravely erred in arriving at a conclusion that it was essentially a civil dispute between the parties even though the *mens rea* to cheat the petitioner was writ large. Learned counsel submits that once a *prima facie* case was made out on the bare perusal of the allegations levelled both the Courts below should have summoned the respondent-accused. Learned counsel has vehemently argued that the petitioner-complainant alongwith his brother i.e. respondent No.1 had sold two acres of land, however, his brother i.e. respondent No.1 cheated the petitioner by not giving him his share from the sale consideration received even though he had been assured by respondent No.1 that either he would hand him over his share from the sale

consideration or in lieu of it, would transfer two kanals of land in his favour after 15 days. Learned counsel has asserted that since respondent No.1 failed to abide by the undertaking given and instead on 20.07.2007, he executed a sale deed bearing No.727 qua land measuring two kanals on 16.07.2007 in his own favour, without his consent, by playing a fraud upon him.

Heard learned counsel for the petitioner and perused the relevant material available on record.

On a perusal of the impugned judgments, this Court has no hesitation in holding that there is no illegality much less perversity in them. Admittedly, the brother of the petitioner-respondent No.1 executed a sale deed in his favour wherein respondent No.3 Sada Ram was a witness. Further, in the complaint filed by the petitioner no allegations of fraud were levelled with respect to the execution of the sale deed. It is only subsequent to the execution of the sale deed, respondent-accused did not pay the petitioner-complainant his share out of the sale consideration received. This Court concurs with the findings recorded by the Court below that essentially if it was, it was a civil dispute between the parties.

In the circumstances, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

19.01.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No