

2023:PHHC:089969

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

RSA-3462-2011(O&M)
Date of decision: 17.07.2023

Smt. Kashmiran Bai

....Appellant

Versus

Pritam Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sandeep Jasuja, Advocate for the appellant
Mr. N.C.Aneja, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. This Regular Second Appeal has been preferred by the plaintiff to assail the correctness of the concurrent findings of fact arrived at by the courts below. Smt. Kashmiran Bai filed the suit claiming to be the daughter of late Sh.Hukam Singh. She sought decree of declaration that two sale deeds executed by late Sh.Hukam Singh on 06.12.2000, which were registered on 07.12.2000, in favour of Hukam Singh's nephew and brother, are null and void, also illegal as the sale consideration has not been paid and late Sh.Hukam Singh was unconscious. Both the courts, on appreciation of the evidence found that the plaintiff has failed to prove her case.

2. On 24.02.2015, an additional issue, "whether the plaintiff is adopted daughter of late Sh.Hukam Singh and if so, to what effect?" was framed and the First Appellate Court was directed to record evidence on the additional issue and send its report to this Court. As per the report, Smt. Kashmiran Bai is not proved to be the adopted daughter of late Sh.Hukam Singh.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook alongwith the requisitioned trial court record.

4. Learned counsel representing the appellant submits that the defendants have failed to prove the payment of sale consideration and Malla Singh-defendant no.2 has stated that late Sh.Hukam Singh was unconscious when the sale deed was executed. He submits that the sale deed was registered on 07.12.2000 whereas late Sh.Hukam Singh died on 07.12.2000 at 4:00 am.

5. This Court has considered the submission of the learned counsel representing the appellant. First of all the onus to prove that the sale deed was without payment of any consideration is on the plaintiff. In the sale deed, the receipt of sale consideration is admitted by late Sh.Hukam Singh. The sale deed was executed on 06.12.2000, whereas it was registered on 07.12.2000. Hence, it will relate back to 06.12.2000. Moreover, the photograph of late Sh.Hukam Singh alongwith two witnesses and the purchaser is appended on the sale deed. Identity of late Sh.Hukam Singh is not in dispute. Moreover, late Sh.Hukam Singh has appended his thumb impression on each page of the sale deed on 06.12.2000 and appended his thumb impressions at the time of registration on 07.12.2000. Moreover, Malla Singh has admitted that late Sh.Hukam Singh alongwith the attesting witnesses had appeared in the office of the Sub-Registrar for getting sale deed registered. No medical evidence has been produced to prove that late Sh.Hukam Singh was

not in his senses when the sale deed was executed. Moreover, the plaintiff (appellant) has failed to prove her locus standi to file the suit. Both the marginal witnesses of the sale deed have supported the case of the defendants.

6. In view of the aforesaid facts and discussion, no ground to interfere is made out. Hence, dismissed.

7. All the pending miscellaneous applications, if any, are also disposed of.

17.07.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE