

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

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RSA-2551-2022 (O&M)

Date of decision : 06.02.2023

Karam Singh through his LRs

... Appellant

Versus

Gurnam Kaur and another

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Nirmaljeet Singh Sidhu, Advocate for the appellant.

Mr. Yogesh Jangra, Advocate for

Mr. Sherry K. Singla, Advocate for the caveator.

Anupinder Singh Grewal, J. (Oral)

The appellant has challenged the judgment and decree passed by the trial Court on 22.12.2017 whereby the suit for declaration filed by the respondent has been decreed and the appeal preferred thereagainst has been dismissed by the lower Appellate Court by order dated 06.09.2022.

Learned counsel for the appellant submits that the Courts below have erroneously decreed the suit although the suit land had been transferred by plaintiff/respondent No.1 in favour of the appellant/defendant voluntarily and the suit had been preferred after three years of the said transfer. The appellant/defendant is the son of respondent No.1/plaintiff and his share in the property of his mother had been transferred in his name. This transfer deed was duly registered before the Sub-Registrar and therefore, there was presumption in his favour which had not been rebutted by the plaintiff.

Learned counsel for the caveator, however, submits that there was cogent evidence before the Courts below to arrive at the conclusion that the transfer deed had indeed been executed in a fraudulent manner. There was no

occasion for the plaintiff to have transferred the land in favour of defendant No.1/appellant herein just seven days after she had executed the Will bequeathing her property.

Heard.

The plaintiff/respondent No.1, who is the mother of the appellant/defendant, had filed a suit for declaration to the effect that the alleged transfer deed No.506 dated 07.05.2012 executed by defendant No.1 from the plaintiff in a fraudulent manner is illegal and void. The plaintiff/respondent No.1 had executed a Will dated 30.04.2012 in favour of the defendants and the transfer deed is stated to have been executed seven days thereafter on 07.05.2012. It has come in the evidence that there were some defects in the Will which were sought to be registered before the Sub-Registrar and the parties had gone to cure the defects on 07.05.2012 whereon the alleged transfer deed had been executed. The plaintiff had categorically stated in her statement that she had been taken to the office of the Sub-Registrar in connection with the defects and the transfer deed had been fraudulently executed by the defendant.

DW-9 Jaspreet Singh, the son of deceased-appellant/defendant No.1 had also admitted in his cross-examination that some days before the transfer deed, the Will was executed by the plaintiff in favour of the defendants, including the sons of the appellant/defendant. He had stated that due to technical defect in the Will, the property could not be transferred in their names. The plaintiff had also cross-examined PW-2 Sardari Lal, the Registration Clerk, who had proved the execution of the Will dated 30.04.2012 (Ex.P3) as well as its cancellation (Ex P4).

In view of the above, I do not find any infirmity in the judgments of the Courts below whereby the suit of the plaintiff/respondent had been decreed by holding that the transfer deed had been executed in a fraudulent manner.

Consequently, the appeal being devoid of any merit stands dismissed.

Pending application, if any, shall stand disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

February 06, 2023
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No