

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 3711 of 2023 (O&M)****Date of Decision: 08.12.2023**

Amarjit Kaur

... Appellant(s)

Versus

Manpreet Kaur

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. C.S.Jattana, Advocate
for Mr. Shivroop Singh Dhaliwal, Advocate
for the appellant(s).

Anil Kshetarpal, J.**CM-13292-C-2023**

1. For the reasons stated in the application, the same is allowed and delay of one day in refiling the appeal is condoned.

CM-13293-C-2023

2. For the reasons stated in the application, the same is allowed and delay of 73 days in filing the appeal is condoned.

RSA-3711-2023

3. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

4. In this regular second appeal, the plaintiff assails the correctness of the judgment and decree passed by the First Appellate Court.

5. The trial Court, vide its judgment dated 07.12.2021, decreed the plaintiff's suit for the grant of decree of declaration to the effect that the gift deed executed by her on 09.01.2019 in favour of her daughter-in-law is illegal, null and void. However, the First Appellate Court, on re-appreciation of the evidence, has found that the gift deed has been executed and registered in accordance with the law and the plaintiff has failed to prove that fraud was played upon him by her daughter-in-law.

6. The learned counsel representing the appellant admits that the plaintiff has failed to lead sufficient evidence to establish the ingredients of fraud. However, he submits that the gift deed was executed with the hope that the defendant will take care of her in the evening of her life. He further submits that the appellant has been thrown out of her house.

7. This Court has considered the submissions made by the learned counsel representing the appellant. It is not the case of the plaintiff that there was any conditional gift deed executed by her in favour of the respondent. The execution of the gift deed has been proved.

8. Keeping in view the aforesaid facts, this Court does not find any ground to interfere with the judgment of the First Appellate Court. Consequently, the present appeal is dismissed.

9. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

December 08, 2023

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No