



RSA-520-2020(O&M)

Date of decision : 23.07.2024

Bhim Sain Dawrha(deceased)
through his LRs**...Appellant****Vs.****Sunder****...Respondent****CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Satpal Bhasin, Advocate and
Mr. Omkar Chauhan, Advocate
for the appellant.

ANIL KSHETARPAL, J. (Oral)

1. In this regular second appeal, the plaintiff assails the correctness of the concurrent findings of facts arrived at by the Courts below while dismissing his suit for the grant of decree of declaration with consequential relief of mandatory injunction.

2. In substance, the plaintiff and defendant jointly purchased the suit land by registered sale deed dated 26.05.2008. They were working together as the property brokers. In October 2012, the plaintiff filed a suit claiming that the agreement to sell was entered in his favour and the sale deed of half share recorded in favour of defendant is the result of fraud and misrepresentation. Both the Courts below found no substance in the plaintiff's case. It would be noticed here that the plaintiff is one of the signatories to the sale deed.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

4. Learned counsel representing the appellant contends that the plaintiff has proved that the entire sale consideration was paid from his

account. He submits that the defendant has failed to prove that he ever reimbursed the amount to the plaintiff. Hence, the sale deed of the entire property should be executed in the name of appellant. He further contends that though the suit was filed after the prescribed period of limitation, however, the same could be extended under Order VII Rule 6 of the Code of Civil Procedure, 1908.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. A registered sale deed executed in favour of two purchasers cannot be modified/rectified merely on account of the fact that the payment has been made from the plaintiff's account, particularly, when they were working together as the property brokers. Only they are aware of the equation between them. In any case, the plaintiff may have a right to recover the amount, if the respondent has failed to pay his contribution. However, that will be subject to the rendition of accounts between the plaintiff and the respondents. As regards the second argument, it would be noted that Order VII Rule 6 of the Code of Civil Procedure,1908, provides for exemption arising out of the Limitation Law. It does not provide for extending the period of limitation or condonation in filing the suit. It only suggests that the ground of exemption from limitation should be specifically pleaded in the plaint. Order VII Rule 6 does not provide a remedy, it merely lays down a procedure.

7. Hence, no ground to interfere is made out.

8. The appeal stands dismissed.

(ANIL KSHETARPAL)
JUDGE

23.07.2024
neeraj

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No