

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1247 of 1994 (O&M)

Reserved on: 12.03.2024

Date of Order:10.04.2024

Joginder Singh and others

.Appellants

Versus

Piara Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. C.L.Sharma, Advocate,
for the appellants.

Mr. Sanjay Majithia, Sr. Advocate, with
Mr. Sumit Sinha, Advocate,
for the respondents.

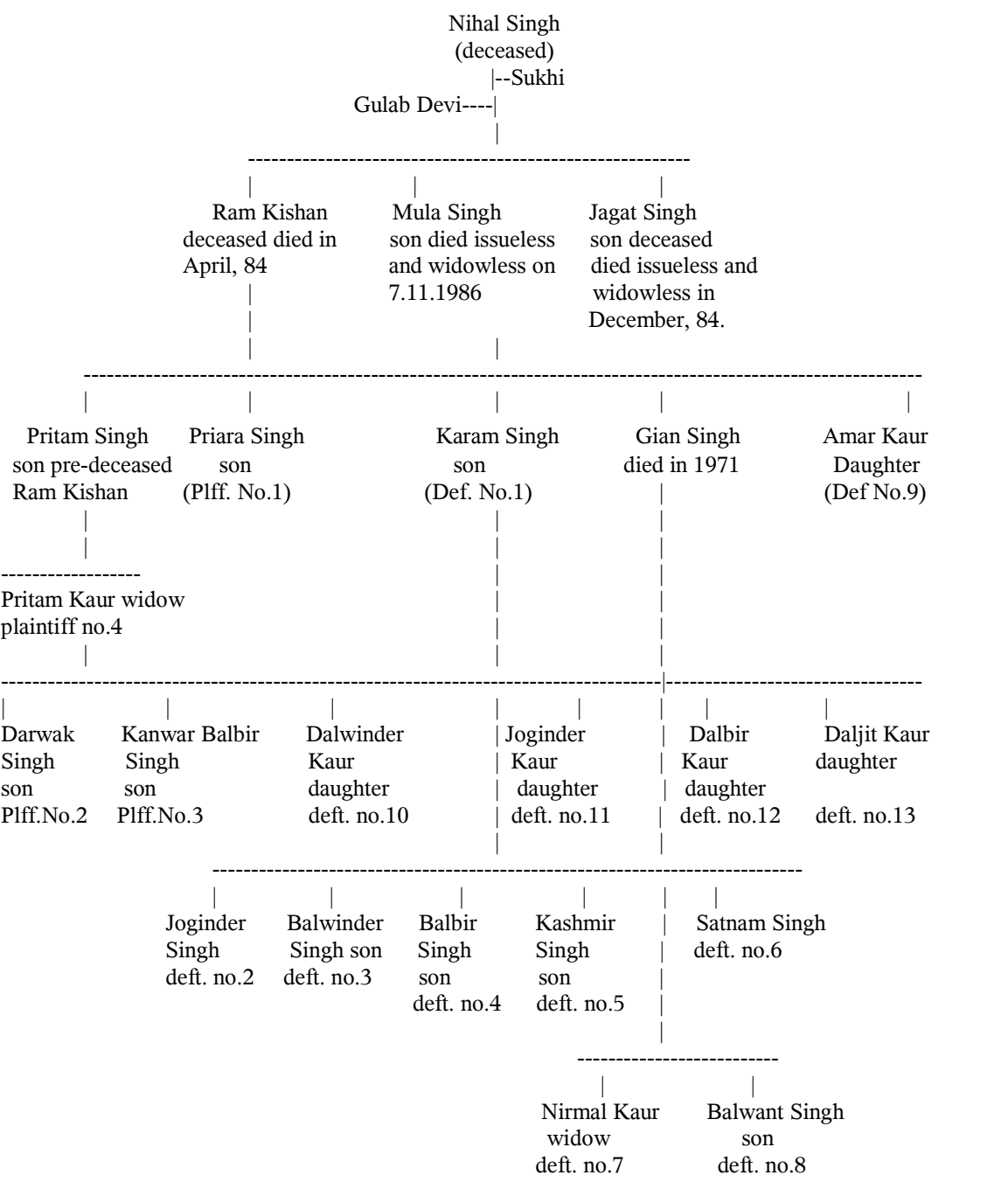
ANIL KSHETARPAL, J

1. **BRIEF FACTS OF THE CASE:-**

1.1 In this regular second appeal, the defendants assail the correctness of the judgment and decree passed by the First Appellate Court which in turn has reversed the judgment and decree passed by the trial court.

1.2 In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

1.3 For demonstration of inter-se relationship between the parties, pedigree table/ family tree is extracted as under:-



1.4 The facts in chronological order are as under:-

Sh. Nihal Singh was the common ancestor of the parties. After his death, his estate devolved upon his two widows, namely, Smt. Sukhi and Smt. Gulab Devi and his son Sh. Dittu. After the death of Smt. Sukhi, vide mutation no.52, the property devolved upon Sh. Dittu. After the death of Sh. Dittu, the property devolved upon Sh. Ram Kishan, Jagat Singh and Mula Singh, his three sons in equal shares. Sh. Ram Kishan executed a registered Will on 09.11.1973, bequeathing his property in favour of his four sons, namely, Piara Singh, Karam Singh, Gian Singh, children of Gian Singh while excluding his daughter Amar Kaur. Sh. Ram Kishan died on

23.04.1984. On the basis of the registered Will, mutation Ex.P1 was sanctioned in favour of Sh.Pritam Singh, Piara Singh, Karam Singh and Sh. Balwant Singh son of Sh. Gian Singh. Sh. Jagat Singh was unmarried and issueless. He executed a sale deed on 23.04.1984, in favour of defendants no.2 to 6, namely, Sh. Joginder Singh, Sh. Balwinder Singh, Sh. Balbir Singh, Sh. Kashmir Singh and Sh. Satnam Singh sons of Sh. Karam Singh. In other words, Sh. Jagat Singh transferred the property in favour of his nephew's children. Thereafter, Sh. Jagat Singh died on 16.01.1985. Sh. Mula Singh also executed a sale deed dated 04.11.1984, in favour of Sh. Karam Singh, defendant no.1. Sh. Mula Singh died on 07.11.1986. The plaintiffs, namely, Sh. Piara Singh, Sh. Darwak Singh, Kanwar Balbir Singh and Smt. Pritam Kaur filed a suit for grant of decree of declaration that the plaintiffs and defendants no.1, 9 to 13 and 15 are joint owner in possession of the land measuring 159 kanals and 15 marlas and the entry in the revenue record is wrong. The plaintiffs also asserted that in the revenue record the property of Sh. Jagat Singh and Sh. Mula Singh has been transferred on the basis of some forged and fictitious documents which are not binding upon the parties. In substance, the plaintiffs claim that the property is Joint Hindu Family/ Ancestral /Coparcenary property.

1.5 Defendants no.7 to 13 and 15 did not contest the suit. Defendant no.1 to 6 and 14 filed their separate written statements. Defendant no.14 claimed that Sh. Dittu mortgaged with possession, plot comprised in Khasra no.65(0-8) in favour of his father. The property was never redeemed within the period of limitation. Ultimately, Sh. Milkha Singh and Sh. Mahnga Singh filed a suit for declaration that they have become owner as the period of redemption has lapsed which was decreed on 27.07.1981

against which appeal has also been dismissed.

1.6 In the written statement, the defendants projected that Sh. Jagat Singh executed sale deed dated 27.04.1984, whereas Sh. Mula Singh executed sale deed on 04.11.1986 which have not been challenged. The plaintiffs while filing the replication claim that in para 3 and 4 of the plaint, the correctness of the aforesaid sale deeds have been challenged.

1.7 Upon appreciation of evidence, the trial court dismissed the plaintiffs' suit, however, the First Appellate Court held that the defendants have failed to prove proper execution and registration of sale deeds dated 27.04.1984 and 04.11.1986. Therefore, the suit of the plaintiffs is decreed.

1.8 At this stage, it would be appropriate to take note of the reasons recorded by the First Appellate Court:-

- (1) Sale deed Ex.D2, allegedly executed by Sh. Mula Singh is surrounded by suspicious circumstances because Sh. Mula Singh was a literate person. He could sign the documents, however, thumb impressions of Sh. Mula Singh have been appended and the oral evidence that Sh. Mula Singh had injured his left thumb impression is based upon a funny story which is not believable. Sh. Mahinder Pal Puri, DW1, the scribe, and Sh. Amarjit Singh, Registrar admitted that they did not know Sh. Mula Singh personally. The Registrar has admitted that his clerk does not put stamps in his presence and the thumb impression of Sh. Mula Singh were not taken in his presence by his clerk. Sh. Mula Singh died on 07.11.1986. Hence, he was not having a sound disposing

mind. The payment of sale consideration is also not proved because no payment was made at the time of registration of the sale deed. Sh. Balwinder Singh has not produced any account books to prove that the vendor had been receiving the amount from him continuously. Mere vague recital in the sale deed that the vendor has already received the payment cannot be relied upon.

- (2) Similarly, no evidence has been led by the defendants to prove that the amount of sale consideration was paid to Sh. Jagat Singh or there was any prior agreement to sell. Neither the Judgment Debtor-Sh. Balwinder Singh has produced his source to pay the amount nor he has produced account books of Sh. Jagat Singh to prove such payment. Sh. Jagat Singh was cashier of the Cooperative Society and there is no evidence that any consideration was paid.
- (3) The scrutiny of orders sanctioning the mutation Ex.P1, Ex.P2 and Ex.P3, show that Sh. Karam Singh was the mastermind behind execution of the documents.
- (4) Ultimately the court held that neither Sh. Mula Singh nor Sh. Jagat Singh executed the sale deeds and therefore, decreed the suit.

2. **ARGUMENTS ADDUCED**

2.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with the requisitioned record of the lower courts'.

2.2 The learned counsel representing the parties have also filed their written submissions, which are extracted as under:-

APPELLANTS

“29.11.1986 Piara Singh s/o Ram Kishan and two sons of Pritam Singh s/o Ram Kishan and Pritam Kaur wd/o Pritam Singh filed suit for Declaration that they are joint owners of the suit land owned by Mula Singh & Jagat Singh (both real brothers of their father) who died unmarried and issueless and of Permanent Injunction restraining defendants from cutting the trees etc on the suit land, against Karam Singh and others, claiming that the land in question is Ancestral Coparcenary Joint Hindu Family Property. Def.No.1 Karam Singh s/o Ram Kishan is real brother of Piara Singh Plaintiff and Defendant No.2 to 6 are sons of Karam Singh -the main contesting defendants, in their written statement stated that the land in question is not Ancestral Coparcenary Joint Hindu Family Property but is self acquired property, Jagat Singh vide Registered Sale Deed 27.4.1984 sold his land to Defendant No.2 to 6 and Mula Singh vide Registered Sale deed dated 4.11.86 sold his land to Defendant No.1 for consideration. As the plaintiffs have not challenged the said sale deeds by affixing the requisite court fee, the suit as such is not maintainable. Despite the said written statement, the Plaintiffs did not bother to challenge the said sale deeds and in replication stated that since the land in question is Ancestral and said sellers had no right to sell the same, so they need not to challenge the said Deeds. After evidence lead by both the parties, Ld. Trial Court while dealing with Issue No.1 on maintainability of suit, held that since the Sale Deeds in favour of Defendants No.1 to 6 have not been challenged, so the Suit is not maintainable. (PAGE 44 of Paper Book).

As regards Issue No.5, regarding Ancestral Coparcenary Joint Hindu Family Property the Ld. Trial Court after detail discussion held that "the property is non-ancestral and is certainly not a corparcenary property of Mula Singh and Jagat Singh". (PAGE45 to 47 of Paper book). However the Ld Trial Court while dealing with Issue No.7,8 & 9 held that since said Jagat Singh and Mula Singh being unmarried have been living with Defendants No.1 to 6 who use to serve them and the sale deeds in question are registered, for consideration and are proved by attesting witnesses, the said sale deeds in favour of Defendants No.1 to 6 are valid, Accordingly the Suit of plaintiffs was dismissed vide judgment & Decree dated 12.3.1990.

In Appeal as mentioned in the Judgment of Ld. Appellate Court in para 11, 8th line from botton at page 16 of Papber Book "in the appeal counsel for the appellants urged that the plaintiffs/appellants were only challenging the factum of execution of documents by Moola Singh and Jagat Singh and were challenging that alleged documents were without any consideration." And Ld. Appellate Court in the Opening Lines in para 1 of it judgment has mentioned that "This is an appeal filed by Kanwar Balbir Singh etc. plaintiff/appellants whose suit for declaration challenging the sale deeds executed by Moola Singh and Jagat Singh in favour of defendant/respondent Karam Singh defendant No.1 and sons of Karam Singh defendant had been dismissed vide judgment and decree dated 12.3.1990.."

Accordingly the Ld. Appellate Court after considering/discussing the said sale deeds which in fact were not challenged by the plaintiffs in para 19 at page 25 of the paper book has finally held that "neither Moola Singh nor Jagat Singh had executed sale deeds in

question Ex.D2 and Ex.D1 respectively. No consideration had been received by Moola Singh or by Jagat Singh. Therefore, findings of the trial court on Issue Nos. 7,8 and 9 cannot be affirmed and those are reversed... Therefore suit of only Plara Singh is decreed for declaration and permanent injunction in alternative for joint possession that he is co-sharer in possession of land in dispute alongwith Karam Singh and Amar Kaur and both were entitled to 1/3 share in the properties of Moola Singh and Jagat Singh."

As is evident from the Plaint in this case, the Plaintiffs have not challenged the sale deeds executed by Moola Singh and Jagat Singh and the Ld Trial Court has held in Issue No.1 that since the Sale Deeds in favour of Defendants No.1 to 6 have not been challenged, so the Suit is not maintainable the findings and Judgment of Ld. Appellate Court as mentioned hereinabove are wholly illegal.

Moreover the suit of the plaintiff is claiming share in the suit land on the plea that the land in question is an Ancestral Coparcenary Joint Hindu Family Property only and the Ld. Trial Court while deciding Issue No.5 has clearly held that "the property is non-ancestral and is certainly not a corparcenary property of Mula Singh and jagat Singh". Thus the suit of the plaintiff deserve to be dismissed and has been rightly dismissed. But the Ld. Appellate Court without setting aside the findings on Issue No.1 and Issue No.5 has allowed the appeal in the terms mentioned herein above, which is not sustainable in the eyes of law.

RESPONDENT

1. Piara Singh son of Ram Kishan, Darwak Singh, Kanwar Balbir Singh son of Pritam Singh son of Ram Kishan, Pritam Kaur widow of Pritam Singh filed the suit

against Karam Singhj and 14 Others for declaration that plaintiff and defendant no. 1, 9 to 13 and defendant no. 15 are joint owners in possession of land measuring 159 Kanal 15 Marla in which plaintiff no. 1 owns 38 Kanal 7 marla and plaintiff no. 2 to 5 and defendant no. 15 jointly own 38 kanal 7 marla. In para no. 2 of the judgment of Ld. Trial Court, judgment gave the pedigree table of the family. The disputed land was originally owned by Nihar Singh and later on inherited by Dittu. After Dittu the land was inherited by three sons namely Ram Kishan, Moola Singh and Jagat Singh in equal shares in whose hand the suit land was ancestral coparcenary joint Hindu Family property. Ram Kishan, Moola Singh and Jagat Singh had got no saleable interest of any kind in the suit property.

2. After Ram Kishan, Moola Singh and Jagat Singh the property came to plaintiff and defendant no. 1, 7, 8 and 9 to 15 in which plaintiff no. 1 has got share of 38 kanal 7 marla and heirs of Pritam Singh also got share of 38 kanal 7 marla, whereas Plaintiff no. 2,3 and 5 and defendant no. 15 got 9/40th share.

3. After death of Jagat Singh mutation of his share was entered in name of defendant no. 2 to 6 on the basis of some forged document in connivance with revenue authorities. However after death of Jagat Singh Moola Singh was entitled to his share. Thus mutation of share of Jagat Singh in favour of defendant no. 2 to 6 is illegal and void as Jagat Singh had no right to transfer the suit property as the same was joint Hindu family coparcenary ancestral property in hands of Jagat Singh.

4. Moola Singh died on 07.11.1986, defendant no. 1 in connivance with revenue authorities got the share of Moola Singh mutated in his name without any right and authority as the suit land in hands of Moola Singh also was ancestral coparcenary joint Hindu family property.

5. *In their separate written statements the defendant no. 1 to 6 took certain preliminary objections that suit is not maintainable as cancellation of sale deed dated 27.04.1984 executed by Jagat Singh and sale deed dated 04.11.1986 executed by Moola Singh has not been sought and the land in hands of Jagat Singh and Moola Singh was self acquired property.*

6. *Mutation on sale made by Jagat Singh was sanctioned on 27.06.1984. Mutation of registered sale deed dated 04.11.1986 made by Moola Singh for Rs. 40,000/- was sanctioned on 24.11.1986. The Ld. Trial Court held that land is not ancestral and mutation on sale deed made by Jagat Singh and Moola Singh was sanctioned without objections from any party. The civil suit was dismissed.*

7. *The unsuccessful plaintiff filed first appeal on 16.04.1970 which was allowed on 05.04.1994. In first appeal it was urged that although the original suit was that transferees were members of coparcenary and joint Hindu family property but in first appeal the appellants urged that they were only challenging the factum of execution of documents by Moola Singh and Jagat Singh and that the very documents were without consideration, Hence the suit was maintainable and plaintiffs was not bound to file a suit for cancellation of sale deed as they were not parties to the suit.*

8. *Facts surrounding execution of sale deed ExD2 by Moola Singh make very interesting reading. Moola Singh was a literate person and could sign documents as he was signing his pension papers. Explanation was given by Amarjit Singh DW3 and Balwinder Singh DW2 that Moola Singh had not signed the documents because of his old age. DW2 states that Moola Singh has not signed the documents because left thumb impression of Moola Singh*

had been cut with knife that is why he had put his right thumb impression on the document . An Application was given by Moola Singh to purchase stamp papers and those forms was having left thumb impression Moola Singh on PW1/B and PW2/A on 03.11.1986. But later on the sale deed shows that Moola Singh had put his right thumb impression on 04.11.1986 at the time of sale deed. But at the time of registration of document neither the word L.T.I (left thumb impression) had been mentioned nor the word R.T.I (right thumb impression) had been mentioned. The comparison of documents, where thumb impressions on Moola Singh is on the sale deed and application for purchase of stamp paper, clearly shows that the document was not executed by Moola Singh as they were not by one and the same person. In para no. 17 of the judgment of Lower Appellate Court it was observed that:

"In this case documents had got compared all the thumb impression of Moola Singh on the sale deed and on the application to purchase stamp papers and none of the thumb impressions was fit for comparison. That clearly proves that documents was not got executed by Moola Singh and by one and the same person, otherwise, thumb impression taken on 03.11.1986, 04.11.1986 and 06.11.1986 would have tallied with each other. Explanation given DW3 Balwinder Singh that right thumb impression of Moola Singh had been cut by knife is not supported by any document which are showing the left thumb impression of Moola Singh on 03.11.86 and 04 11.86 on the form for purchasing stamp and statement of Balwinder Singh is not corroborated by the Registrar who had stated that Moola Singh had put his thumb

impression due to old age but this fact was not stated by Balwinder Singh in his examination-in-chief or in his cross-examination. Moola Singh is proved to be the person who used to sign the documents. Normal practice of the deed writer is to obtain the left thumb impression of the male as laid down by the Hon'ble High Court in case Harbans Kaur Vs. Anup Singh and others reported in 1989 Civil Court cases 17(1) (H&H). Therefore, execution of the documents is not proved at all from the oral statement of Balwinder Singh." The document was registered on 06.11.1986 and Moola Singh died on 07.11.1986 which shows that he was ill and not in sound state of mind.

9. *As regards sale deed Ex D1 is concerned Jagat Singh was a literate person and cashier of co-operative society and a member of Panchayat hence Jagat Singh could sign documents and there was no occasion for him to put his thumb impression on document and hence sale deed ExP1 is suspicious more so as no amount was paid to Jagat Singh at the time of execution of document nor is there any evidence that any amount had been paid at home prior to sale deed. Vague recital that amount was paid at home cannot be accepted. Hence the appeal was rightly accepted and sale deeds were set aside and held to be without consideration."*

3. ANALYSES & DISCUSSION

3.1 This court has carefully examined the first sale deed Ex.D2, dated 03.11.1986. The stamp paper for execution of the sale deed was purchased on 03.11.1986. It has been scribed on a non-judicial stamp paper of Rs.5000/-. Actually it is executed on three papers, one non-judicial stamp

paper of Rs.5000/- and two plain papers. It was scribed on 04.11.1986 by Khushi Ram, a professional scribe. It was registered by the Sub-Registrar on 06.11.1986.

3.2 To prove this sale deed, DW6-Gurcharan Singh Lambardar, its marginal witness and DW7-Khushi Ram scribe have been examined. Whereas, the sub-registrar who registered the sale deed namely Amarjit Singh has been examined as DW3.

3.3 Apart from this, Balwinder Singh, who is also signatory to the sale deed has been examined as DW2. He has proved the execution and registration of the sale deed. A careful perusal of the sale deed proves that on each page Sh. Mula Singh has appended his right hand thumb impressions.

3.4 On 06.11.1986, he has appended two thumb impressions in the office of the sub-registrar. Both the marginal witnesses, namely, Gurcharan Singh, Lambardar, and Tarsem Singh, Sarpanch, have appended their signatures not only on 04.11.1986 when the sale deed was executed but also on 06.11.1986 when the sale deed was registered in the office of the sub-registrar.

3.5 The First Appellate Court has held that the execution of the sale deed by Mula Singh is doubtful on the ground that Mula Singh was illiterate and his left hand thumb impression was not appended.

3.6 It may be noted here that Balwinder Singh DW2 has explained that Mula Singh had become old and there was an injury on the left thumb impression. Hence, right thumb impression was appended.

3.7 The scribe of the sale deed has specified that right thumb impression of Mula Singh has been appended on each page. Though, in the

office of sub-registrar, it has not been recited as to whether it is right or left thumb impression, however, the thumb impression of Mula Singh has been appended.

3.8 However, as noticed Balwinder Singh has explained the reasons why left hand thumb impression was appended. Moreover, it has been explained that Mula Singh had become old. DW7-Khushi Ram is a professional scribe. DW3-the Joint Registrar is the registering authority. He has explained that he inquired from Mula Singh that why he has appended his thumb impression. In response thereto, Mula Singh explained that due to old age he cannot sign.

3.9 It is important to note that DW6-Gurcharan Singh, witness of the margin of the sale deed dated 04.11.1986, executed by Mula Singh and the scribe DW7-Khushi Ram has been cross examined at length however, the learned counsel representing the appellant failed to impeach their credibility. DW6-Gurcharan Singh in his statement has mentioned that Mulla Singh was wearing a bandage on his left thumb but its correctness was never doubted because the witness was never cross examined on this aspect.

3.10 Similarly, to prove the sale deed dated 27.04.1984, Sh. Mohinder Pal Singh Puri, scribe and Gokal Singh, Lambardar, witness of the margin have been examined. They have also been cross-examined at length. However, the learned counsel representing the plaintiff failed to impeach their credibility.

3.11 The First Appellate Court has looked at the sale deed with a prism of suspicion. The sale deed is a registered document. It carries

presumption of having been executed correctly/genuinely. It was for the plaintiff to prove that the sale deed was not executed by Mula Singh. They have not led any reliable evidence to prove the same.

3.12 They examined the handwriting and finger print expert (to be checked), however, he failed to give any definite opinion. However, he has stated that the thumb impressions are not comparable. It may be noted here that the real brother of Mula Singh, namely, Jagat Singh had executed a sale deed in favour of children of Balwinder Singh in the year 1984. Thus, it is obvious that Mula Singh and Jagat Singh were residing with the family of Balwinder Singh.

3.13 The onus lay on the plaintiff to prove that the sale deed was result of fraud or misrepresentation. In rebuttal, the plaintiffs have examined Arvind Sood, Hand Writing and Fingerprint Expert. He had stated that the thumb impressions are not comparable.

3.14 In these circumstances, there is no cogent evidence to prove that Mula Singh did not execute the sale deed.

3.15 The presumption of genuineness in favour of the registered document has not been rebutted.

3.16 The second sale deed Ex.D1 dated 27.04.1984, was executed by Jagat Singh in favour of children of Balwinder Singh. This has been again scribed on three non judicial stamp papers of Rs.5,000/-. The first and second leaf is for Rs.2000/- each whereas the third leaf is for Rs.1000/-. Sh. Jagat Singh purchased the stamp paper for execution of the sale deed on 26.04.1986, whereas the sale deed was scribed and registered on 27.04.1984. Sh. Jagat Singh had appended his thumb impression on each page of the sale

deed.

3.17 Sh. Jagat Singh has also appended his thumb impression at the time of registration of the sale deed on the back of the first page. This sale deed has been scribed by Sh. Mohinder Pal Puri, who has been examined as DW1.

3.18 Two witnesses of the margin are Gokul Singh Lambardar and Jagir Singh Lambardar. Gokul Singh Lambardar has been examined as DW5. In both the sale deeds, the vendors have acknowledged the receipt of entire sale consideration. Hence, The First Appellate Court has erred in recording finding that the payment of sale consideration is not proved.

3.19 It may be noted here that the title to the sale deed has passed on the execution and registration of the sale deed. It is nowhere stipulated that if payment is not made, the sale would not come into effect. The sale deed is a registered document which carries presumption of correctness which has not been rebutted.

3.20 Moreover, the parties are very closely related. Moreover, non-payment of sale consideration does not effect the validity of the sale deed unless it is established that there was stipulation to this effect in the sale deed.

3.21 With respect to the findings of the First Appellate Court that the sale consideration was not paid at the time of execution of the sale deed, it may be noticed that the consideration can be price paid or promised or part paid and part promised. Actual payment of the full price at the time of execution of the sale deed is not a *sine-qua non* for completion of the sale deed. While adjudicating upon such allegations particularly when the sale

has been challenged by a person who is not party to the sale deed, the court is required to examine the intention of the parties.

3.22 The real test is what was intended by the parties. Reliance in this regard can be placed on the judgment of the Surpreme Court in *Vidhya Dhar vs. Manik Rao and others 1999 3 SCC 573* and *Kaliaperumal vs. Raj Gopal and another, 2009) 4 SCC 193*. In this case, the plaintiffs have not proved that in absence of absolute proof of sale consideration, the vendor intended to retain the title of the property.

3.23 Moreover, it has been proved from the deposition of Amarjit Singh, Joint Registrar, that he inquired from the vendor who acknowledged receipt of the payment of sale consideration. In any case, they were parties the vendor and vendee were closely related.

3.24 While examining such cases, the court is not required to examine the case with the prism of a detective who is trying to find fault with all the things or facts which are presented to him.

3.25 Moreover, the official acts are presumed to have been carried in accordance with law. The First Appellate Court has found that Mula Singh and witnesses appended their signatures in the presence of the Clerk in the office of Joint Registrar. The office of Joint Registrar or Registrar is a comprehensive office which includes the officer and its official. These officials are posted to help the officers, hence it was not appropriate for the First Appellate Court to doubt the veracity of the registered sale deed on the ground that the thumb impression were appended not in the presence of the registrar.

3.26 Furthermore, the First Appellate Court has erred in observing

that Mahinder Pal Puri (scribe), DW1 and the Joint Registrar (Registering Authority) has stated that they were not knowing the parties personally. It may be noted here that the scribe and the Registrar are doing their professional duty. They are not expected to personally know the parties.

3.27 The finding recorded by the First Appellate Court that the vendor was not of sound disposing mind at the time of registration of the document on 06.11.1986 is not only beyond pleadings but also beyond evidence. It is not the case of the plaintiffs that Mula Singh was not of sound disposing mind. Moreover, the First Appellate Court has shifted the entire onus of proving that the sale deed was executed on payment of sale consideration upon the defendants, whereas it was for the plaintiffs to prove their case.

3.28 Similarly, the First Appellate Court's second reason is also erroneous in view of the judgments passed in *Vidhya Dhar and (supra)* and *Kalira perumal*. In this case also, Jagat Singh had acknowledged the payment of sale consideration before the execution of the sale deed. Jagat Singh was working as a Cashier in a Cooperative Society. In other words, he was literate and was not a rustic villager. He was unmarried and issueless. Hence, it is not appropriate to doubt every official document.

3.29 The First Appellate Court's reason no.3 is again not only beyond pleadings but beyond evidence also. It is nowhere the case of the plaintiffs that Karam Singh is the mastermind behind the execution of the documents. Karam Singh is a beneficiary of one of the sale deed.

3.30 The last reason assigned by the court is also erroneous because the First Appellate Court has reiterated what has been already observed.

3.31 It may be noted here that the learned counsel representing the plaintiff before the First Appellate Court did not press the issue with regard to property being ancestral or coparcenary as recorded by the First Appellate Court in para 19, hence, he abandoned the same plea.

3.32 The correctness of all the contentions of the learned senior counsel representing the respondents have already been examined while analyzing the reasons recorded by the First Appellate Court.

4. CONCLUSION

4.1 Keeping in view the aforesaid discussion, inevitable conclusion is that the judgment of the First Appellate Court is erroneous and hence, set aside and that of the trial court is restored.

4.2 The appeal is allowed.

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

10th April, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO