

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

103

RSA-733-1994

Date of decision: 13.03.2024

JASWANT SINGH (DECEASED) THROUGH LRS**..Appellant****Versus****PARGAT SINGH AND OTHERS****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. G.S. Punia, Sr. Advocate
with Ms. Harveen Kaur, Advocate
for the appellant.

Mr. Jatinder Nagpal, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the defendant assails the correctness of the concurrent findings of fact arrived at by the Courts below while decreeing plaintiffs suit for grant of decree of possession. In substance, the dispute is with regard to the validation of gift deed executed by Sh. Lohru @ Gurdial in favour of Sh. Jaswant Singh. The plaintiffs are sons of Sh. Kartar Singh. Their grand-father Sh. Narain Singh and father of Sh. Lohru @ Gurdial, Sh. Kahan Singh were brothers. The exact relationship between Sh. Jaswant Singh and Sh. Lohru @ Gurdial Singh is not established. The execution of the gift deed has been proved by examining DW-1 Sh. Sharanjit Singh, Clerk from the office of Deputy Commissioner, who has brought the record from the office of the Registrar, DW-2 Sh. Girdhari Lal Sharma, Scribe, has also been examined, DW-3 Sh. Joginder Singh, Nambardar, the attesting witness of the gift deed, has been examined.

2. Both the Courts below have found that the execution of the gift deed is proved, however, the plaintiffs suit has been decreed on the ground that acceptance of gift deed is not proved on the part of defendant. It has been held that the defendant has not signed in token of acceptance of the gift deed.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with the photocopy of the record, which has been produced by the learned counsel representing the parties.

4. On perusal of the gift deed, it is evident that the donor namely Sh. Lohru @ Gurdial Singh was pleased with the services of the donee (Sh. Jaswant Singh son of Sh. Karnail Singh). There is a recital in the gift deed that Sh. Jaswant Singh is his grand-son from brotherhood. He has delivered possession of the suit property to Sh. Jaswant Singh. It is also recited that Sh. Jaswant Singh has become owner of the gifted suit land and the other heirs of the donor will have no right in the land, which is part of the gift deed. It is also recited that the donee accepts the gift.

5. PW-2 Sh. Gurmail Singh in his cross-examination admits that Sh. Jaswant Singh son of Sh. Karnail Singh (donee) is in possession of the property. He denied suggestion that Sh. Jaswant Singh was cultivating the land even during the lifetime of Sh. Lohru. Plaintiff No.2 has stated that defendant took forcible possession of the land after dismissal of their suit. It has come on record that previously the plaintiff filed Civil Suit No.4 of 05.01.1985, for grant of decree of injunction, which was dismissed on 09.01.1986.

6. In these circumstances, the question is ‘whether there is any specific form of acceptance of the gift?’. The Supreme Court in Asokan Vs. Lakshmikutty & others, (2007) 13 SCC 210, held that to prove acceptance of the gift, there may be various means including handing over document to donee or delivery of possession of the gifted property or even a silence may some time indicate acceptance. It is not necessary to prove any overt act in respect thereof.

7. In this case, there is specific recital in the gift deed that the donee has accepted the gift. It is also recited that the possession has also been delivered to the donee. The plaintiffs have filed a suit for possession, therefore, the possession of donee is not in dispute. The plaintiffs have failed to prove that the donee did not enter possession on the exclusion of the gift deed.

8. Keeping in view the aforesaid discussion, this Court is of the considered view that on the execution of the gift deed, the gift was complete and no separate acceptance of gift was necessary in the facts and circumstances of the present case.

9. Consequently, the appeal is allowed. The judgment passed by the Courts below are set aside and the suit filed by the plaintiffs shall stand dismissed.

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

March 13th, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No