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

**RSA-3893-2019 (O&M)
Reserved on : 12.11.2024
Pronounced on : 19.11.2024**

Bala Devi

....Appellant

VERSUS

Raj Kumar (deceased) through LR's

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D. K. Tuteja, Advocate for the appellant.

ALKA SARIN, J.

1. The present regular second appeal has been preferred by the plaintiff-appellant against the judgements and decrees dated 16.11.2016 and 13.11.2018 passed by the Trial Court and the First Appellate Court dismissing her suit for declaration with consequential relief of permanent injunction.

2. The parties are sister and brother. The suit was filed by the plaintiff-appellant challenging a release deed dated 12.12.2014. According to the plaintiff-appellant she has five brothers including the defendant-respondent. The defendant-respondent started claiming himself to being the owner of the share of the plaintiff-appellant in the suit land on the basis of a registered relinquishment deed dated 12.12.2014. When the plaintiff-appellant obtained a copy of the relinquishment deed then she learnt that the defendant-respondent had played a fraud and got transferred her share in the suit land in his favour. Infact she had gone to the Tehsil office for executing

a Will but the defendant-respondent obtained her signature/thumb impression on the alleged relinquishment deed without informing her about its contents. Hence, the present suit. In the written statement the defendant-respondent raised preliminary objections regarding cause of action, locus standi, concealment, non-joinder and mis-joinder of necessary parties, limitation etc. On merits it was the stand taken that the plaintiff-appellant had filed the suit under the influence of her brothers Satish and Shamsher and that the plaintiff-appellant had already sold her share in other properties in favour of Shamsher, Neelam etc. and given her share in the suit property to the defendant-respondent by executing the registered relinquishment deed in the presence of witnesses.

3. From the pleadings of the parties following issues were framed :

1. Whether the plaintiff is entitled to the decree for declaration with consequential relief of permanent injunction as prayed for ? OPP
2. Whether the is not maintainable in the present form ? OPD
3. Relief.

4. Vide judgement and decree dated 16.11.2016 the Trial Court dismissed the suit of the plaintiff-appellant. The appeal of the plaintiff-appellant was also dismissed by the First Appellate Court vide judgement and decree dated 13.11.2018. Hence, the present regular second appeal.

5. Learned counsel for the plaintiff-appellant has contended that both the Courts have erred in dismissing the suit. It is urged that the relinquishment deed was a result of fraud and deserved to be set aside. The defendant-respondent had got the said deed executed on the pretext of

executing a Will by the plaintiff-appellant. It is argued that the relinquishment deed is surrounded by suspicious circumstances.

6. Heard counsel for the plaintiff-appellant.

7. In the present case the plaintiff-appellant has been unable to prove that the relinquishment deed dated 12.12.1994 is a result of fraud and misrepresentation. On this point the First Appellate Court found that *“This contention of the learned counsel is unable to cut much ice because the release deed is a registered document and it has been executed in proper manner as it was drafted by a scribe and later on registered. Even the corresponding entry in the register of scribe is there on the file. The law on the point of fraud is settled that anybody who alleges fraud, must prove the same because it is very easy to allege a fraud but the requirement of law is that plea of fraud must be proved like a charge in the criminal case. But that has not been done in the present case. It was the bounden duty of the appellant-plaintiff to prove fraud in the execution of the release deed, but no such fraud has been proved by her. Merely, sole serving statement of the appellant-plaintiff cannot create doubt on the document when all the possible evidence has been brought on record by the respondent-defendant. He himself got examined and stood on the rigors of cross-examination qua the genuineness of the said document. There is no witness who could highlight that any fraud has been committed by the respondent-defendant. In this view of the matter, this court is of the opinion that the document being a registered document and in the absence of any clear evidence regarding fraud, the same cannot be accepted to be incorrect”*. Even before this Court

the counsel for the plaintiff-appellant has been unable to point to any cogent and reliable evidence on the record to show that the registered relinquishment deed was the result of a fraud. In the absence of such reliable evidence, the findings recorded by both the Courts cannot be faulted.

8. In **Rattan Singh vs. Nirmal Gill [(2021) 15 SCC 300]** the Supreme Court inter-alia held that :

“33. To appreciate the findings arrived at by the courts below, we must first see on whom the onus of proof lies. The record reveals that the disputed documents are registered. We are, therefore, guided by the settled legal principle that a document is presumed to be genuine if the same is registered, as held by this Court in Prem Singh v. Birbal [Prem Singh v. Birbal, (2006) 5 SCC 353]. The relevant portion of the said decision reads as below : (SCC pp. 360-61, para 27)

“27. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption.” (emphasis supplied)
In view thereof, in the present cases, the initial onus was on the plaintiff, who had challenged the stated registered document.”

In the present case too it was for the plaintiff-appellant to prove that the registered relinquishment deed suffered from some illegality or infirmity. However, she failed to discharge the onus put on her. As such, the findings

of fact recorded by both the Courts upholding the relinquishment deed cannot be faulted. No other point was argued.

9. In view of the above, no mistake or error of law or facts can be found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

19.11.2024

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No