

2024:PHHC:014499
**132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-3076-2019 (O&M)
Date of decision: 01.02.2024

Kharak Singh (since deceased) through LRs
....Appellant
Versus

Satnam Singh (since deceased) through LRs and others
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Krishan Singh Dadwal, Advocate for the appellant
Mr. Mansur Ali, Advocate and
Mr. Amarpreet, Advocate for respondent no.1
Mr. Parvinder Singh, Advocate for
applicant in CM-11641-C-2023

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the correctness of the concurrent findings of fact arrived at by the courts below is assailed by the plaintiff, through his legal representatives.

2. In order to comprehend the issue involved in the present case, the following relevant facts, in brief, are required to be noticed.

3. The plaintiff late Sh.Kharak Singh on 29.07.2005 executed a registered transfer deed in favour of his only son Sh.Satnam Singh . The aforesaid transfer deed is sought to be annulled by filing a suit for the grant of decree of declaration. It was claimed that Sh.Kharak Singh used to reside in the house of his married daughter Smt. Krishna and Sh.Satnam Singh, after kidnapping his father, got the transfer deed executed and registered.

4. Both the courts, on appreciation of evidence, have come to a conclusion that there is no evidence to prove that the transfer deed was result of coercion.

5. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

6. Learned counsel representing the appellant contends that Sh.Kharak Singh immediately filed complaints before the police and filed the suit. He submits that Sh.Satnam Singh was recorded as owner of 52 kanals land and suffered a decree on 09.08.1989, in favour of his father Sh.Kharak Singh. He further submits that the land measuring 98 kanals includes 52 kanals, which were transferred by virtue of decree dated 09.08.1989, passed in favour of Sh.Kharak Singh. He further submits that as many as 2 doctors have been examined to prove that Sh.Kharak Singh was not keeping good health and he was hospitalized.

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

8. It may be noted here that Sh.Jaswinder Singh s/o Smt. Krishna Devi has stated that Sh.Kharak Singh was taken away by Sh.Satnam Singh on 03.07.2005. It is evident that Sh.Kharak Singh stayed with his son for a period of one month because he came back to the house of Smt. Krishna Devi on 03.08.2005. The transfer deed was executed on 29.07.2005. Moreover, the doctors have not stated that Sh.Kharak Singh's mental health or his decision making ability was compromised.

9. Furthermore, it is also evident that the plaintiff failed to prove that any intoxicant was administered to Sh.Kharak Singh on 29.07.2005, the date when the transfer deed was executed. The transfer deed is a registered document. This Court has perused its photocopy. It is evident that the photographs of Sh.Kharak Singh and Sh.Satnam Singh are pasted on the first page of the transfer deed. Sh.Kharak Singh has also thumb marked the same in a manner that half of his thumb impression is on his photograph whereas the remaining half is on the first page. Sh.Kharak Singh has also thumb marked at two different places on the second page. He has also appeared before the Sub Registrar and thumb marked the transfer deed ,while acknowledging the transfer. The photograph of the Registrar alongwith the executant and witnesses are printed on the transfer deed. Both the witnesses of the transfer deed have supported the case of the defendant.

10. Keeping in view the aforesaid facts, no ground to interfere is made out.

11. Hence, dismissed.

12. In view of the aforesaid facts, no order is required to be passed on the application i.e CM-11641-C-2023.

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

01.02.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE