



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 515 of 2024 (O&M)

Date of Decision: 04.02.2025

Kavita

... Appellant(s)

Versus

Sunil (Since Deceased) through his Legal Representatives and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sanjay Ghalawat, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab and Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The plaintiff assails the correctness of the concurrent findings of facts arrived at by both the Courts below for the grant of decree of declaration that the registered sale deed executed by her in favour of defendant No.2-her paternal uncle is a result of fraud. Both the Courts below have found that the plaintiff's suit was filed beyond the period of limitation as the suit was filed on 23.10.2013, whereas the sale deed was executed on 23.04.2009.

3. The Trial Court found that the plaintiff was minor on the day the sale deed was executed, however, after attaining majority, she was required to file a suit within a period of three years, but she did not file a suit within the aforesaid period. The First Appellate Court has held that the plaintiff has failed to prove that she was minor on the day the sale deed was executed. The Court found that the appellant was major on the day the sale deed was executed. It would be noticed here that the plaintiff was brought up by the family of her maternal uncle. The sale deed was executed four days before her marriage in favour of her paternal uncle. Now the appellant alleges fraud by her maternal uncle, who had taken care of her from the time she was child.

4. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

February 04, 2025
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No