

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:- The Hon'ble Justice Supratim Bhattacharya

**SAT 458 of 2017
With
CAN 2 of 2026**

**Subal Chandra Ala & Ors.
Vs.
Srish Chandra Das & Ors.**

For the Appellants : Mr. Sounak Bhattacharya
Mr. Sounak Mondal
Mr. Abhirup Halder

For the Respondents : Mr. Sarajit Sen
Mr. Tapas Singha Roy

Judgment Delivered On : 25.06.2026

Supratim Bhattacharya, J.:

1. The instant appeal has been filed by the appellants/plaintiffs being aggrieved by and dissatisfied with the judgment passed by the learned First Appellate Court that is the learned Civil Judge (Senior Division) 2nd Court at Baruipur dated 31.08.2017 in Title Appeal No. 12 of 2016 (previously numbered as Title Appeal No. 19 of 2011), whereby and wherein the learned First Appellate Court has been pleased to pass the following:

“ Hence it is

ORDERED

That the instant appeal be and the same is dismissed on contest against the respondents;

that the Judgment & Decree dated 31.03.2011 & 08.04.2011 respectively, passed by the Learned Civil Judge (Junior Division) 1st Court, Baruipore in Title Suit No. 141 of 1998 is hereby

affirmed with specific observations, as made in the body of this judgment.

Parties shall bear the costs of this appeal of their own. ”

2. Factual Matrix:

The appellants/plaintiffs have filed the original suit before the learned Civil Judge (Junior Division) 1st Court at Baruipur being Title Suit No. 141 of 1998 praying for declaration and permanent injunction.

Through the plaint the plaintiffs/appellants have submitted that originally the suit property was recorded in the name of one Brojo Mohan Ala and after the demise of the said Brojo Mohan Ala his two sons namely Haran Chandra Ala and Palan Chandra Ala inherited the suit property.

The plaintiffs are the legal heirs of Palan Chandra Ala and they were in joint possession of the suit property with the said Haran Chandra Ala. It has been stated that during the revisional settlement as the plaintiffs/appellants were minors Haran Chandra Ala recorded his name in respect of the suit property, as such the entries are erroneous. It has also been stated that the said Haran Chandra Ala was not the owner of 16 Aanas in respect of the entire suit property. It has further been stated that in respect of some of the suit properties it was recorded jointly in the name of Haran Chandra Ala and Supati Bala Dasi being shareholders of 8 Aanas each.

The appellants/plaintiffs are the sons of Supati Bala Dasi and the same was recorded in the RS record of rights. The appellants have further stated that Haran Chandra Ala was bachelor and he became unconscious on 28.08.1998 having cerebral attack and ultimately expired on 01.09.1998. It has further been stated

that during this period the said Haran Chandra Ala had been unconscious. It has further been stated that on the demise of Haran the appellants/plaintiffs inherited the properties of Haran Chandra Ala. It has also been stated that the said Haran did not execute any deed during this period in favour of the defendants as the said Haran had no capacity to execute any deed and he had not accepted Rs. 40,000/- from the defendants. It has been stated that the defendants have manufactured the said deed in their favour and there was absence of free will and free consent on the part of Haran. It has further been stated that the defendants/respondents have no right, title or interest in respect of the suit property.

The respondents/defendants appeared before the Trial Court and filed their written statement. They have denied the allegations levelled by the appellants/plaintiffs. The defendants have denied that the sale deed dated 31.08.1998 is vitiated by fraud and undue influence or that the same is collusive and fraudulent. It has also been denied that the said Haran Chandra Ala did not execute the sale deed out of free will or that he had cerebral attack on 28.08.1998 or that he was unconscious or that he could not take sum of Rs. 40,000/- from the defendants or that the defendants did not have the said fund it has further been denied that the said sale deed was created in collusion with the deed writer or that the defendants did not acquire any title or possession in respect of the property. On the contrary the defendants have averred that the said Haran Chandra Ala was healthy and hearty and capable of understanding at the time of execution of the sale deed in favour of these defendants. It has also been stated that the plaintiffs were not in

good terms with the said Haran Chandra Ala as litigation was pending between them.

On the basis of the pleadings the following issues have been framed:

- “1. Is the suit maintainable in its present form?*
- 2. Is there any cause of action for instituting the suit?*
- 3. Have the plaintiffs title and possession over the suit property as alleged in the plaint?*
- 4. Is the alleged sale deed dated 31-08-98 vitiated by fraud and undue influence ?*
- 5. Are the plaintiffs entitled to the relief as prayed for ?*
- 6. To what other relief, if any, are the plaintiffs entitled?*
- Additional Issue*
- 7. Is the suit barred under section 34 of the Specific Relief Act ?”*

On behalf of the appellants/ plaintiffs four witnesses have deposed they are

PW1 - Subal Chandra Ala

PW2 - Chandi Ram Moni

PW3 – Tapan Kr. Sardar

PW4 – Amiya Kr. Ghoshal

On behalf of the plaintiffs the following documents have been exhibited

- 1. Information slip (ext.1)*
- 2. R.S. R-O-R of Khatian no. 67 (ext. 2)*
- 3. L.R. R-O-R of khatian no. 959, 710, 922 (ext. 3)*
- 4. L.R. Khatian no. 598 (ext. 4)*
- 5. L.R. Khatian no. 625 (ext. 5)*
- 6. L.R. Khatian no. 593 (ext. 6)*
- 7. Death certificate of Haran Chandra Ala (ext. 7)*
- 8. Certified copy of judgment and decree in T.S.64/97 (ext. 8)*
- 9. Certified copy of judgment and decree in T.S. 230/81 (ext. 9)*

10. Cremation certificate (ext. 10)

11. Rent receipts (ext. 11 and 12)

12. Deed no. 4346 of 1998 (ext. 13)

13. L.R. khatian no. 605 (ext. 14)

14. Medical certificate (ext. 15)

On behalf of the defendants also four witnesses have deposed. They are

DW1 – Sunil Das

DW2 - Samar Biswas

DW3 – Swapan Naskar

DW4 - Bablu Gayen

On behalf of the defendants the following documents have been exhibited.

1. Certified copy of order passed in TS.124/98 (ext.A)

2. Original sale deed, being 5346/98 (ext. B)

3. R.S.R-O-R of khatian no. 67 (ext. C)

4. L.R. R-O-R of khatian no.598(ext. D)

5. L.R. R-O-R of Khatian No. 605 (ext.D/1)

6. Cremation Certificate (with objection) [ext. E]

3. Considering the oral and documentary evidence on record the Trial Court has been pleased to dismiss the suit and has passed the following :

“It is ordered that the suit be and the same is dismissed on contest as against the defendants with cost of the suit.”

4. Being aggrieved by and dissatisfied with the dismissal of the title suit , the plaintiffs preferred the first appeal. After considering the evidence on record, both documentary and oral, the learned first Appellate Court has been pleased to dismiss the first appeal which has given rise to the present appeal.

5. In the present appeal the learned counsel representing the appellants has submitted the following:

- I. The said Haran Chandra Ala was not the owner of 16 Aanas of share in respect of the suit property and he did not have the capacity to prefer the appeal.
- II. It has further been submitted that the appellants/plaintiffs being the sons of Supati Bala Dasi have 8 Aanas of share in respect of the suit property as some of the properties were recorded in the name of Supati Bala Dasi and Haran Chandra Ala.
- III. It has also been alleged that the appellants/plaintiffs got the suit property under Khatian No. 235 and 399 in terms of the solenama decree passed in Title Suit No. 64 of 1977 and also got the 28 decimals of land in plot No. 371 under Khatian No. 283 by a decree passed by the Court in Title Suit No. 230 of 1981.
- IV. It has further been stated that the said Haran could not execute any deed in favour of the defendants because suits and appeals were pending at that time and it was the contention that the suit property under LR Khatian No. 605 and 598 belonged to them.
- V. It has further been stated that Haran was a bachelor and he became unconscious following heart decease on 28th August, 1998 and ultimately expired on 01.09.1998 .
- VI. It has also been stated that on the expiry of Haran the plaintiffs/appellants have inherited the property of Haran .

- VII.** It has been alleged that Haran did not accept Rs. 40,000/- from the defendants and the defendants had no capacity to pay the said sum.
- VIII.** It has been alleged that Haran was unconscious at the time of the execution of the alleged sale deed and the respondents /defendants have manufactured the said deed in their favour and there was absence of free will and free consent on the part of Haran.
- IX.** It has been argued that the impugned deed could not have been executed in free mind and volition a day prior to the death, overlooking the medical certificate issued by a registered medical practitioner and the said Haran had suffered from cerebral thrombosis and was incapable of taking decision.
- X.** He has further submitted that the observations of both the Trial Court and the First Appellate Court that Haran was physically fit and mentally sound at the time of execution of the deed is not acceptable.
- XI.** He has further submitted that both the Trial Court and the First Appellate Court have surprisingly held that the plaintiffs could not discharge its burden of proving the fact that the sale deed is vitiated by fraud and the defendants have successfully discharged their onus of proving that the deed was duly executed.
- XII.** It has also been alleged that Sunil Das who is one of the purchasers of the suit property and the defendant No. 2 has deposed as DW1 to prove the case of the defendant. He has deposed in his cross-examination that there is no witness to prove the fact that there was an agreement between Haran and the purchasers for the sale of the property.

- XIII.** It has further been stated that the defendants have no document to show that there was any agreement for sale and no receipt can be shown revealing payment of consideration money to Haran.
- XIV.** He has further stated that the said Sunil has deposed that he did not know that Haran Chandra Ala had suffered from cerebral thrombosis and expired and has further stated that he deals in cash but he has bank account but he could not produce the statement of the bank account.
- XV.** It has also been stated that he has no document to show that he has enough cash in hand. The said Sunil has also deposed that he took loan from bank as capital for his business and had spent the consideration money from the said capital.
- XVI.** He has also deposed that Haran was physically fit and mentally sound at the time of the execution of the deed and had received the balance consideration money from the defendant before execution of the said deed.
- XVII.** The learned counsel have further submitted that from the deposition of DW1 it is clear that he has failed to prove that he has any source of income to pay the consideration amount.
- XVIII.** According to the learned counsel it appears that respondents/defendants have failed to prove that when and in what manner consideration money was paid by the respondents /defendants to Haran.
- XIX.** He has further submitted that the said witness has deposed that when the consideration amount was paid to Haran no one was present from the family of Haran to witness the same.

- XX.** It has further been submitted that the attesting witness and the writer of the deed are persons of the defendant's and their evidence is not credible and is unreliable.
- XXI.** He has further submitted that it is clear that no consideration price has been paid to Haran before the registration of the said deed so the same is a clear violation of Section 54 of the Transfer of Property Act as such the said deed is liable to be set aside, cancelled and quashed.
- XXII.** The learned counsel has also raised a question as to whether the said Haran though being stated to be fit did not sign on the said deed instead had put his LTI and to that effect no explanation has been provided on behalf of the defendants.
- XXIII.** The learned counsel has also stressed upon the deposition of DW2 and DW4 and has stated that both the witnesses during their cross-examination has stated that Haran had put his LTI after receiving the balance consideration amount but to that effect no document has been shown.
- XXIV.** He has further submitted that DW2 and DW4 has demolished the case of the defendants by stating that Haran Chandra Ala was not physically fit at the time of execution of the said deed which is contrary to the deposition of DW1 who said that the said Haran was fit at the time of execution of the deed so there is total non-compliance of the Section 54 of the Transfer of Property Act.
- XXV.** Learned counsel has also stressed upon the deposition of DW3 wherein the said witness has deposed that Haran was ill and died due to illness. He has

further submitted that this witness has deposed that Haran had signed on the deed after receiving the balance consideration amount but there is no signature of Haran instead there is LTI of Haran on the said deed.

XXVI. Learned counsel has placed the evidence of PW4 that is one Amiya Kumar Ghoshal who is said to be the compounder of Dr. S K. Banerjee who is said to have treated Haran during the last few days and in his cross-examination the said PW4 has deposed that he was the compounder of Dr. S. K. Banerjee and has identified the medical certificate issued by the said doctor on 31.08.2018 and had identified the handwriting and the signature of the said doctor and this witness has specifically stated that Haran has suffered from cerebral thrombosis three to four days prior to his death and has also stated that Haran was lying unconscious till his death. This witness has deposed that Dr. S. K. Banerjee had written the medical certificate in his presence. The said witness has proved the contents of the said document as such the said document was marked exhibit with objection and as the defendants could not produce any evidence contrary to the said document to disprove the same so the same is conclusive proof.

XXVII. Learned counsel has further submitted that DW3 has deposed that the deed was executed before the sub-Registrar on Commission and DW1 had given Rs. 10,000/- to Haran in presence of the sub-Registrar but on perusal of the said deed it appears that the said sub-Registrar had not made any endorsement regarding payment of consideration money which is a

mandatory requirement under Section 58 (1)(c) of the Registration Act, 1908.

XXVIII. He has further submitted that the said provision is a mandatory provision and not a directory one in view of the Section 60 of the Registration Act. Section 60 of the said Act lays down that after such of the provisions of Sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word 'registered'. In the instant case, there is non-compliance by the Registrar in terms of Section 58 (1) (c) of the said Act in terms of Section 60 of the said Act.

XXIX. The learned counsel has also raised the issue that in the death certificate the name has been mentioned as Haran Chandra Ala whereas in the deed in question it has been mentioned as Haradhan Ala, who was not the owner of the properties mentioned in the said deed and he had no capacity to transfer the said property by way of the impugned deed. He has further submitted that the respondents have filed an application under Order XLI Rule 27 of the Code of Civil Procedure in this regard in the instant appeal and the said application has no merit.

XXX. The learned counsel has relied upon the following judgments

(1972) 1 SCC 9

(2022) 18 SCC 489

(2025) Scc Online SC 1961

(2022) 20 SCC 199

(2001) 3 SCC 179

Relying upon the aforementioned submission the learned counsel has prayed for allowing the present appeal and thereby setting aside the judgment of the Trial Court and the First Appellate Court.

6. On the contrary the learned counsel representing the respondents /defendants during his exhaustive argument has stressed upon the following points:

- I.** The learned counsel has stated that there is no proof that Haran was under coma at the relevant point of time and he was incapacitated by any such disease.
- II.** Learned counsel has highlighted the evidence of PW4 that is Amiya Kumar Ghoshal and has stated that the said witness is not trustworthy.
- III.** He has further submitted that the fact of payment of consideration money has been proved and there is no non-compliance of Section 54 of the Transfer of Property Act.
- IV.** He has further submitted that during the registration of the deed Haran had handed over possession over the suit property which is specifically mentioned in the deed.
- V.** Learned counsel has relied upon a judgment reported in 1993 Supplementary (2) SCC 611 in the case between Ashoke Kumar Sharma Vs. Chandrasekhar wherein it has been stated that the provision of making endorsement in the registered deed as required under Section 58 (1) (c) regarding receipt of consideration money is

not mandatory but directory and therefore non-compliance of making such endorsement does not render the said deed void. The learned counsel has relied upon 1977 SCC Online Odisha 13 and (1999) 3 SCC 722.

Banking upon the same the learned counsel has prayed for dismissal of the appeal.

7. At the time of admission of the appeal, the following substantial questions of law have been framed :

“(1) Whether both the Courts below substantially erred in law and on facts by dismissing the suit filed by the plaintiffs/appellants without considering the material evidence on record?”

(2) Whether the Courts below erred in discarding the evidentiary value of the medical certificate issued by the registered Doctor on the illness of Haran Chandra Ala, when the said medical certificate was exhibited without objection and, therefore, the contents thereof is deemed to have been admitted?

(3) Whether the Court of Appeal below erred in dismissing the suit even after recording the finding that it is a fit case for remand?

(4) Whether the Courts below erred in not drawing a presumption that the purported deed was not executed by Haran Chandra Ala with free mind and on his own volition a day prior to his death overlooking the certificate issued by the registered Doctor that he suffered from cerebral attack and was incapable to take a decision?

In the time of hearing the following two additional substantial questions of law have been framed

5. Whether the Ld. Judges of both the Courts that is the Trial Court as well as the First Appellate Court erred in law by not holding that the impugned deed is vitiated due to non-compliance of formalities of Section 54 of the Transfer of Property Act, 1882 ?

6. Whether the Ld. Judges of both the Court that is the Trial Court as well as the First Appellate Court erred in law by not holding that the impugned deed is vitiated as regards to non-compliance of Section 58 of the Registration Act, 1908? "

8. The moot point for consideration is as to whether the deed dated 31.08.1998 is in accordance with law or not. In this aspect from the deed it transpires that Haradhan Ala put his LTI on the said deed. From the said deed it reveals that it has been registered on 31.08.1998 at the private residence of Haradhan Ala, son of late Brojo Mohan Ala, before the Additional District Sub-Registrar Baruipur, 24-Parganas-South.

The issue which has given rise to the present lis is as to whether the said Haran was mentally and physically fit or not at the time of execution of the said deed which is in question. In this context on behalf of the prosecution one witness namely Amiya Kumar Ghosal has deposed, the said witness has deposed that he knew Dr. S. K. Banerjee as the said Dr. Banerjee was his neighbour and he was the assistant of Dr. Banerjee. This witness has deposed that he also knew Haran as he was his neighbour. He has further deposed that the said Haran has expired being

affected by cerebral thrombosis and Dr. S. K. Banerjee had treated Mr. Haran. This witness has exhibited the certificate dated 31.08.1998 and has also deposed that during the last three to four days Haran was unconscious. During cross-examination this witness could not utter the full name of Dr. S.K. Banerjee and has not produced any iota of evidence to prove that he had the training to assist any doctor and he had assisted Dr. Banerjee. This witness has categorically stated that he has no idea about treatment or diagnosis of any disease. This witness could not produce any document in respect of Dr. S. K. Banerjee though claiming himself to have assisted the said doctor as such the deposition of this witness is far from having credibility and is a far fetched one to rely upon.

As regards to the said deed in question the said deed is a registered one thus it can be presumed that the provisions of law which are required for registration have been complied with.

On behalf of the respondents the said deed in question has been relied upon and has been proved so now it is the appellants who are to adduce evidence to discard the reliability and the presumption of sanctity of the said deed. The appellants had tried their best to gather evidence on their behalf and they have adduced several witnesses to depose on their behalf, among them is PW4 who has exhibited a certificate said to be issued by the doctor who had treated the said Haran and had tried to impress that the said Haran was affected by cerebral thrombosis and was under the treatment of Dr. S. K. Banerjee for the last few days extending from 28.08.1998 till his death but this witness himself has demolished his credibility by stating that he has no idea about diagnosis of disease and treatment.

Sri Chandi Ram Moni another witness who has deposed as PW2 on behalf of the appellants/ plaintiffs during his cross examination has deposed that he cannot say whether Haran Ala had met with heart attack or not. This witness has also deposed that Haran had not been taken to any hospital or nursing home. He has also deposed that there is a nursing home near the house of Haran Ala. On the contrary, this witness has deposed that the condition of Haran Ala was good.

So from the deposition of the witnesses it is hard to believe that Haran Ala had been unconscious for three to four days that is from 28.08.1998 to 01.09.1998. Normal human psychology is that if a person remains unconscious for a bit longer time then obviously this person taken to a hospital and in this present case it is the allegation on behalf of the appellants/ plaintiffs that the said Haran Ala had been unconscious from 28.08.1998 till his death which is very hard to believe. Above all the appellants plaintiffs have claimed themselves to be the relatives and heirs of Haran Ala and it cannot be accepted that a relative will not attend another relative of his and will not take him to a hospital in spite of being unconscious for pretty long time. So the fact of unconsciousness cannot be accepted.

9. Section 54 of the Transfer of Property Act, 1882 defines the word 'Sale'. Sale is a transfer of ownership in exchange for a price paid or promised or part paid and part promised. Thus, from the said definition itself it transpires that the words 'price paid or promised or part paid and part promised' indicate that actual payment of the whole of the price at the time of execution of the sale deed is not a *sine qua non* to the completion of the sale. Even if the whole price is not paid but the document is executed and registered, the sale would be complete. So from the definition it is

clear that the time of payment of price is not *sine qua non* to the completion of the sale. If the intention is that the property should pass on registration, the sale is complete as soon as the deed is registered irrespective of whether the price has been paid. In this context this court relies upon Paragraph 36 of the judgment published in (1999) 3 SCC 573 wherein it has been stated:

“ 36. The definition indicates that in order to constitute a sale, there must be a transfer of ownership from one person to another, i.e., transfer of all rights and interests in the properties which are possessed by that person are transferred by him to another person. The transferor cannot retain any part of his interest or right in that property or else it would not be a sale. The definition further says that the transfer of ownership has to be for a “price paid or promised or part-paid and part-promised”. Price thus constitutes an essential ingredient of the transaction of sale. The words “price paid or promised or part-paid and part-promised” indicate that actual payment of the whole of the price at the time of the execution of sale deed is not a sine qua non to the completion of the sale. Even if the whole of the price is not paid but the document is executed and thereafter registered, if the property is of the value of more than Rs 100, the sale would be complete.”

10.Section 58 of the Registration Act, 1908 lays down the particulars to be endorsed on documents admitted to registration.

“58. Particulars to be endorsed on documents admitted to registration.—(1) On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under section 89, there shall be endorsed from time to time the following particulars, namely:—

(a) the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal."

So the aforementioned section signifies that it is the incumbent duty of the Registrar to endorse on the deed the fact of transaction taken place in his presence.

In the present lis there is discrepancy in the evidence of the witnesses as to whether any transaction took place in presence of the Registrar or not. Evidence adduced on behalf of the appellants/plaintiffs states that there has been no payment of money by the purchaser to Haran Chandra Ala and accordingly there is no endorsement by the Registrar as regards to transaction. In this regard it has been discussed earlier that transaction of money at the time of execution of the sale is not the essential element of sale on the contrary it is the intention of the parties which is the main factor, which has also been opined by the Hon'ble Apex Court. So it cannot be disregarded that the said deed has not been executed by Haran Chandra Ala. Even non-payment of the consideration money at the time of execution and registration of a deed does not prevent the passing of the title of the property sold where sale has been completed by execution and registration of the conveyance. Thus there being a registered deed of sale that too on commission does not nullify the deed.

There being a registered deed, the onus of disproving the same heavily lies upon the appellants and the appellants have strongly relied upon the deposition of PW4. The veracity of the deposition of the said witness is very much clouded as to the fact that he does not have any idea about diagnosis of a disease and treatment. In addition to the above it is the contention of the appellants that the said Haran Chandra Ala remained unconscious since being affected by cerebral thrombosis on 28.08.1998 till his death on 01.09.1998 this version is hard to believe as because if a person remains unconscious for a pretty long time it is the nature of human being to take the said affected person to a Hospital or Nursing home and to have him treated. In this present case the said Haran had never been admitted to the Hospital as there has not been any document revealing the same.

In addition to the above it is neither the case on behalf of the appellants/plaintiffs nor has it been proved on their behalf that there was an existence of fiduciary relationship between the respondent/ defendants and Haran Chandra Ala.

As regards to the application under the Order XLI Rule 27 of the Code of Civil Procedure the respondents/ applicants have prayed for allowing the applicant to take into consideration the sale deed bearing No. 949 for the year 1997 registered in the office of the Additional District Sub-Registrar Baruipur, South-24-Parganas. On perusal of the photocopy of the said deed it transpires that it is a deed of the year 1997 wherein the vendor is Haradhan Ala @ Haran. As this issue was not earlier raised by the appellants so the respondents did not have the opportunity or did not feel necessary to produce this document earlier. As regards to identity

this issue has been raised in the present appeal by the appellants and had not been raised earlier so the said document produced on behalf of the respondents is to be taken into consideration as such the application praying for taking into consideration the said deed is **allowed**. Thus the application being **CAN 2 of 2026** is **allowed**.

11. As regards to the allegations on behalf of the appellants that the said Haran Chandra Ala did not have the capacity to sale the scheduled mentioned property as mentioned in the deed in contention, though it has not been pressed upon by either of the parties, is also not at all acceptable. This Court is of the same view as that of the First Appellate Court as regards to the title in respect of the plots of land mentioned in the schedule.

12. The judgment relied upon on behalf of the appellants that is **(1972) 1 SCC 9** lays down that in election cases oral evidence has to be examined with great deal of care because of partisan atmosphere continuing even after the election. In the said judgment it has also been stated that it will be wrong on the part of Courts to just brush aside the oral evidence even when the evidence is highly probable and the same is corroborated by unimpeachable documentary evidence. In this present case no unimpeachable documentary evidence has been produced on behalf of the appellants as because the witness specifically the PW4 could not state the full name of the doctor who had issued the certificate and veracity of his evidence is very much clouded on having been stated by him that he knows nothing about diagnosis and treatment and could not produce any document in support of his contention that he used to assist the said doctor in spite of claiming himself to have assisted the

said doctor. So the decision referred on behalf of the appellants is of no aid to the appellants.

The judgment of the Hon'ble Apex Court reported in **2025 Scc Online SC 1961** also does not come in aid to the appellants as because in the said case the vendor herself averred that she never obtained any sale consideration from the defendant but in the present case the factual aspect is not the same herein the vendor has expired and there has not been any allegation on behalf of the vendor.

The judgment of the Hon'ble Apex Court reported in **(2022) 18 SCC 489** also does not come in aid to the appellants as because there was sham transaction in respect of the power of attorney on the strength of which the said deed was executed and in the present case in hand the vendor has expired so the best person who could have stated about the payment of consideration money is not alive herein and in the judgment cited it has been stated that a sale of an immovable property has to be for a price, the price may be payable in future and it may be partly paid and the remaining part can be made payable in future. In the present case it is only the vendor who could have alleged as regards to the non-payment of the consideration amount.

The judgments passed by the Hon'ble Apex Court referred to on behalf of the appellants reported in **(2022) 20 SCC 199** and **(2001) 3 SCC 179** are related to framing of substantial questions of law so these two authorities do not affect the result of the lis and it is worth mentioning that two additional substantial questions of law have been framed at the time of hearing as per the prayer of the appellants themselves.

13. From the aforementioned discussion it is apparent that the appellants have not been able to prove the allegations levelled by them. As such this Court is of the opinion that the judgment passed by the learned First Appellate Court does not require interference. So the present appeal being **No. SAT 458 of 2017** is **dismissed**.
14. Parties shall be entitled to act on the basis of the server copy of the judgment and order placed on the official website of the Court.
15. Urgent Xerox certified photo copies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Supratim Bhattacharya, J.)