



107 IN THE HIGH OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.5990 of 2018 (O&M)

Date of Decision : September 09, 2025

Arun Kumar and others Appellants

Vs.

Raj Kumar RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rakesh Kumar, Advocate for the appellants.

DEEPAK GUPTA, J.

Plaintiffs of the case are before this Court against the concurrent findings of the Courts below, inasmuch as suit for declaration and permanent injunction filed by them, was dismissed by the trial Court on 15.02.2016 and their appeal was dismissed by the First Appellate Court on 19.01.2018, thus affirming the findings of the trial Court.

2. Property in dispute belonged to one Mahesh Chand. Plaintiffs are widow and children of Mahesh Chand. They had challenged the sale deed dated 09.10.2009 (Ex.P6), whereby said Mahesh Chand sold the suit property in favour of the defendant (*respondent herein*). It was alleged by the plaintiffs that Mahesh Chand had fallen in bad habit. He used to take liquor and other intoxicants and most of the time he was living in the property in question, separately from the plaintiffs. Defendant, a shrewd person, by taking advantage of the weaknesses of Mahesh Chand, succeeded in getting the sale deed executed in his favour by dominating the Will of Mahesh Chand. It was further claimed that the sale deed was without consideration. Plaintiffs claimed that after the death of Mahesh Chand, they are the owners and as such, prayed for a decree of declaration that they are owners in possession of the suit property; that sale deed dated 09.10.2009 in favour of the defendant

is null and void. They further prayed to restrain the defendant from alienating the suit property.

3. Defendant denied the relationship of plaintiffs with Mahesh Chand. He further pleaded that Mahesh Chand was a reputed painter and that he (defendant) had joined him as a disciple to learn the art of painting. Mahesh Chand developed love for him and both of them started living like father and son. It was further alleged by the defendant that plaintiffs had mistreated Mahesh Chand and had been pressurizing him to transfer his property in their name, due to which Mahesh Chand started living with him (defendant) since 1989. Defendant further submitted that sale deed dated 09.10.2009 was executed in his favour for a valuable consideration and that he was delivered possession thereof. He controverted all the allegations of the plaintiffs and prayed for dismissal of the suit.

4. After framing issues and taking evidence, trial Court came to the conclusion that the plaintiffs are, of course, the widow and children of the deceased – Mahesh Chand, but plaintiffs failed to prove that impugned sale deed was a result of any undue influence or fraud. Suit was accordingly dismissed by the trial Court and the findings were affirmed by the First Appellate Court.

5. Assailing the concurrent findings, it is contended by learned counsel for the appellants that no evidence was produced by the defendant to the effect that any consideration was paid to deceased – Mahesh Chand and so the sale deed being without consideration is a result of fraud. It is also the contention of learned counsel that the defendant has himself admitted that he was not the son of Mahesh Chand, but in the sale deed, defendant was referred to as son of Mahesh Chand, which also proved his undue influence upon Mahesh Chand. Prayer is accordingly made for setting aside the impugned judgments passed by the Courts below.

6. After appraising the entire record, this Court does not find merit in any of the contentions of learned counsel for the appellants.

7. As has been found by the Courts below, the execution of sale deed dated 09.10.2009 (Ex.P6) is proved not only by the testimony of DW4-Jodhajt Singal, the document writer, but further by one of the attesting witnesses, namely, Rakesh Kumar, DW2. Both of them proved that Mahesh Chand had executed the sale deed with his free consent and that there was nothing to show that he was under any undue influence. Their evidence further revealed that when the sale deed was produced before the Sub Registrar, Mahesh Chand had admitted the receipt of the sale consideration. DW2 – Rakesh Kumar, i.e. attesting witness, was not cross-examined on this aspect.

8. Not only above, it was further noticed by the Appellate Court that after execution of the sale deed dated 09.10.2009, Mahesh Chand was alive upto 24.10.2011, i.e. for a period of more than two years, after the execution of the sale deed. However, he never assailed the correctness of the sale deed on any ground. It has also come in evidence, as was admitted by one of the plaintiffs – Arun Kumar (PW4) that Mahesh Chand was living separately with the defendant for the last 20 years prior to his death. This in itself supports the stand of the defendant that the relationship between Mahesh Chand and the plaintiffs were not cordial and that he (Mahesh Chand) was treating the defendant as his son. In these circumstances, in case, the defendant has been reflected as son of Mahesh Chand in the impugned sale deed, though he is admittedly not the son of Mahesh Chand, it will not invalidate the sale deed.

9. Having regard to the aforesaid discussion, this Court does not find any ground to interfere in the well reasoned concurrent findings of the facts recorded by the Courts below, as the same are found to be based upon proper appreciation of evidence. Consequently, there is no merit to interfere. The appeal is accordingly dismissed. All the pending application(s), if any, stand(s) disposed of.

September 09, 2025

Sarita

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No