



**RSA-1689-2024 (O&M)**

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

**RSA-1689-2024 (O&M)**

**Date of decision: 03.03.2025**

Ompati

..Appellant

Versus

Tejvir Singh and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sanjeev Kumar Aggarwal, Advocate  
Mr.Ojas Bansal, Advocate for the appellant

**ANIL KSHETARPAL, J. (Oral)**

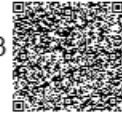
**CM-6591-C-2024**

1. For the reasons stated in the application, delay of 32 days in filing the appeal is condoned.

2. CM stands allowed.

**Main case**

3. The plaintiff assails the correctness of the concurrent findings of fact arrived at by the courts below while dismissing her suit for the grant of decree of declaration that the registered transfer deed executed by her on 14.06.2012 in favour of her son and grandson of another son is result of fraud and misrepresentation. Both the courts have found that the plaintiff failed to prove either the fraud or misrepresentation while executing the registered transfer deed on 14.06.2012.

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4. Learned counsel representing the appellant contends that the appellant was in fiduciary relationship with her son and grandson. Tejvir has admitted the plaintiff's claim in this suit.

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

6. It is well settled that particulars of fraud are required to be pleaded and proved. However, only the plaintiff entered the witness box. Her deposition remains uncorroborated. The correctness of her photograph on the registered transfer deed is not disputed. She has not proved that she never appended her thumb impression on the transfer deed. The transfer deed is attested by two witnesses, however, she has failed to examine any of the attesting witness. As far as the submission based on fiduciary relationship is concerned, it may be noted that the plaintiff was required to prove that her son and grandson were in a dominating position. Learned counsel representing the appellant relies upon the judgment passed in **Krishna Mohan Kul alias Nani Charan Kul and another vs. Pratima Maity and others 2003 AIR (SC) 4351**. However, in that case, the executant was 106 years old man having various ailments. In the peculiar facts of the case, the court held that on account of fiduciary relationship, the onus lays upon the beneficiary to prove that there was no misrepresentation. However, in this case, the appellant was below 70 years age. The validity of a registered transfer deed cannot be set aside merely on presumption. It was for the appellant to lead positive evidence to prove her case. However, she has failed to do so.

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

8. Hence, dismissed.

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

**(ANIL KSHETARPAL)**  
**JUDGE**

**03.03.2025**

rekha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No