



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

RSA-3919-2019 (O&M)

Date of Decision : 06.03.2025

Surjit Singh (deceased) through LR Jarnail Singh ... Appellant(s)

Versus

Karnail Singh (deceased) through LRs & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shakti Mehta, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 30.11.2016 passed by the Trial Court and the judgment and decree dated 20.11.2018 passed by the First Appellate Court.

2. Brief facts relevant to the present *lis* are that plaintiff-Surjit Singh (since deceased and represented through his LRs) filed a suit for declaration and permanent injunction averring therein that defendant-respondent No.1 is son of the plaintiff and defendant-respondent No.2 is daughter-in-law of the plaintiff and they were residing separately from the plaintiff and never looked after him in any manner. It was further averred that defendant-respondent No.1 was serving in the Punjabi University Patiala and defendant-respondent Nos.1 and 2 came to meet the plaintiff at village Mauran and he had complete faith in them. It was further the case that the plaintiff was an old man of 77 years and was hard of hearing and had a weak eyesight. Defendant-respondent Nos.1 and 2 had approached the

plaintiff in the month of July 2004 and requested him to accompany them to the Tehsil Complex to witness a document for the purposes of loan, which is alleged to have been raised by defendant-respondent No.1 from Punjabi University. It was further the case that the plaintiff was taken to the Tehsil Office and in connivance with defendant-respondent No.2, his signatures were obtained on a number of papers and the plaintiff signed in good faith. It was further the case that in November 2006 the plaintiff came to know from his other son that mutation proceedings were pending and that defendant-respondent Nos.1 and 2 in connivance with the officials had got executed a sale deed dated 28.07.2004 in their favour by playing fraud and hence challenge to the sale deed. It was further averred that the value of the land was about ₹30,00,000/- per acre but the sale deed was for ₹3,35,500/-. It was further stated that there was no legal necessity to transfer the land.

3. Defendant-respondent Nos.1 and 2 appeared and filed their joint written statement raising various preliminary objections. On merits it was submitted that the plaintiff himself had executed the sale deed in question in a sound disposing mind and in the presence of the witnesses in the office of Sub-Registrar, Patran and since then defendant-respondent Nos.1 and 2 were in physical possession of the suit property. It was further averred that Jarnail Singh was given land at village Mouran by the plaintiff and the suit land was given to defendant-respondent Nos.1 and 2 out of his own sweet will. It was further averred that after the execution of the sale deed, the plaintiff himself had given a power of attorney for sanctioning mutation in favour of defendant-respondent Nos.1 and 2 and he was well aware of the sale deed.

4. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the sale deed dated 28.7.2004 is illegal, null and void, result of fraud, without consideration and is liable to be set aside ? OPP
2. Whether the plaintiff is entitled to permanent injunction restraining the defendants from alienating the suit property ? OPP
3. Whether the suit of the plaintiff is false and frivolous ? OPD
4. Whether plaintiff has not approached this court with clean hands ? OPD
5. Relief.

5. The Trial Court vide judgment and decree dated 30.11.2016 dismissed the suit. Aggrieved by the same an appeal was preferred which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 20.11.2018. Hence, the present Regular Second Appeal.

6. Learned counsel for the appellant would contend that there is no evidence that any consideration had passed and that a total fraud had been played upon the plaintiff by defendant-respondent Nos.1 and 2 who had taken the plaintiff to the Tehsil Office on the pretext of taking a loan, however, the sale deed was got executed.

7. I have heard the learned counsel.

8. In the present case, both the Courts concurrently found that the plaintiff himself had stepped into the witness box as PW1 and had stated that he had executed the sale deed voluntarily but had later challenged the same due to pressure of the other son, namely, Jarnail Singh. He further stated that he did not want to come to Court to depose in regard to the allegations, however, he was brought to the Court by Jarnail Singh. It was further the finding that no particulars of fraud had been specifically pleaded in the plaint nor proved. Both the Courts have also found various discrepancies in the case set up by the plaintiff inasmuch as on the one hand the stand taken was that the signatures were obtained on a blank piece of paper. However, in the same breath it was stated that the plaintiff was taken to Patran for the purposes of a loan and then to the Tehsil Office. The witness i.e. DW2 - Raj Kumar, Stamp Vendor, duly proved the sale of the stamp papers to the plaintiff on 28.07.2004 for the purposes of execution of the sale deed. He also proved on record Ex.DW2/B i.e. the entry in the register. Ram Lal, Registration Clerk stepped into the witness box as DW3 to prove the registration of the sale deed before the Sub Registrar, Patran and a copy of the sale deed was produced by him as Ex.DW3/B and the attesting witness of the sale deed, namely, Gursev Singh, Nambardar, also stepped into the witness as DW4 who also deposed regarding the due execution of the sale deed. The said witness was given various suggestions in the cross-examination. He yet again reiterated that balance sale consideration had been paid by defendant-respondent Nos.1 and 2 to the plaintiff. He also identified the signatures on the same. Despite the detailed cross-examinations of all the

witnesses produced by defendant-respondent Nos.1 and 2, nothing could be elicited to show that any fraud was played upon the plaintiff while executing the sale deed. The learned counsel for the appellant has not been able to point out to any evidence on the record to show that there was any fraud played.

9. In view of the above, no fault can be found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

06.03.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO