





her favour vide Mutation No.11794. That she continues to be owner in possession of land mentioned in the suit measuring 2 kanals 15 marlas, situated in Village Bohar, Tehsil and District Rohtak. She asserted that she is also owner of 225 square yards which is bounded by properties duly mentioned in the plaint. It is the case of plaintiff that claim of defendant based on sale deed dated 07.11.1986 is fraudulent and sale deed is void and illegal and is a result of fraud, impersonation and misrepresentation. That she had never executed sale deed dated 07.11.1986. She had never signed or thumb marked it nor had received any sale consideration. She claimed that neither she was party to the sale deed nor had appeared for registration of sale deed before the Registrar and in her place somebody else had executed the sale deed in question. It is the case of plaintiff that she came to know about this fact when her husband had visited the suit property and found defendant claiming the possession in respect of suit property. She has accordingly, sought declaration that sale deed dated 07.11.1986 being illegal and void is not binding on her rights.

3. On notice, defendant had duly filed her written statement, taking preliminary objections regarding maintainability and that suit is barred by limitation. On merits, it was asserted that plaintiff, had sold 8 ½ marlas of land i.e. 255 square yards duly mentioned and described in the plaint. It was claimed that the said land was sold by plaintiff vide sale deed No.4707 dated 07.11.1986, for sale consideration of Rs.5,000/-. On execution of sale deed, suit property was duly handed over to defendant and since then, it is the defendant who is in possession of the suit property. Defendant claimed to have constructed boundary walls, two rooms, one store and washroom. It is asserted that sale deed was duly signed / thumb marked by plaintiff in the presence of



witnesses and plaintiff has herself appeared in the office of Sub-Registrar and got the sale deed registered.

4. From the pleadings of parties, following issues were framed:-

1. Whether the plaintiff is entitled to decree for declaration alongwith consequential relief of permanent injunction as prayed for? OPP
2. Whether the LC report dated 02.05.2015 is liable to be set aside on the ground mentioned in the objection filed by the plaintiff? OPP
3. Whether the suit of the plaintiff is not maintainable in the present form? OPD
4. Whether the suit of the plaintiff is time barred? OPD
5. Whether the plaintiff has no locus standi to file the present suit? OPD
6. Relief.

5. I have heard learned counsel for the appellant and perused the records. In the present case, both the Courts have concurrently concluded that sale deed was duly executed by plaintiff - appellant and has relied upon on the statements/evidence led by defendant in the shape of her own evidence while appearing as DW5, evidence of officials from the office of HRC D.C. Office, Jhajjar as well as Rohtak as DW2 and DW3 to prove that sale deed was duly registered in the office of Sub-Registrar, evidence of one of the attesting witnesses namely, Krishan Kumar as DW4 and handwriting expert Deepak Jain as DW6. Courts below have also taken in consideration evidence of plaintiff as PW-1, her husband as PW-4 & that of PW-6 handwriting expert as regards to fraud, fabrication and impersonation, however, same had not found favour with courts below and were ignored / rejected.

6. Learned counsel for the appellant has argued that initial onus to prove due execution of sale deed was upon defendant who has failed to prove



the same and it is plaintiff/appellant who has succeeded in proving that sale deed was not signed by plaintiff, especially in view of report of handwriting expert - PW6. Learned counsel for the appellant has further argued that from the evidence of DW4 and that of DW6, due execution of sale deed is not proved. He asserts that there is no evidence showing that it was plaintiff who had appeared before the Sub-Registrar.

7. Learned counsel for appellant has also referred to evidence of DW4 attesting witness to sale deed, and has argued that attesting witness has not stated about presence and signatures of second attesting witness at the time of execution of sale deed. He further asserted that even report made by DW6 - handwriting expert in favour of defendant cannot be relied upon as the signatures for comparison were taken from the office of Sub-Registrar and not from the Court file. It is also asserted that passing of sale consideration has not been proved.

8. Learned counsel for the appellant has relied upon the following judgments i.e. *Kewal Krishan v. Rajesh Kumar & Ors.*, 2022 (1) RCR (Civil) 207, *Janak Dulari Devi & Anr. v. Kapildeo Rai & Anr.*, 2011 AIR (SCW) 3185, *Durgamani Behera & Ors. v. Ghasiram Mohanta & Ors.*, 1996 (1) LJR 729, *Subhra Mukherjee v. Bharat Coking Coal Ltd.*, AIR 2000 SC 1203, *Rangammal v. Kuppuswami & Anr.*, 2011 (3) CCC 446 (S.C.), *Thiruvengada Pillai v. Navaneethammal & Anr.*, 2008 (2) CivCC 266, *Jaswant Singh v. Jagroop Singh & Ors.*, 2016 (1) PLR 840, *Pankaj Sharma & Ors. v. Santosh Sharma & Ors.*, 2015 (2) PLR 489, *Subhash Chander & Ors. v. M/s Active Promoters Pvt. Ltd.*, 2015 (2) ICC 268, *Mangat Singh v. Rakesh Kumar Gupta & Anr.*, 2015 (1) LAR 147, *Gurmeet Kaur v. Sukhpal Kaur & Ors.*, 2019 (2) PLR 454 and *Nand Kishore v. Kewal Krishan & Ors.*, 2019 (1) RCR (Civil)



794.

9. The main arguments raised by learned counsel for the appellant is that DW4 attesting witness has not spoken about presence of second attesting witness as well as passing of consideration. In examination-in-chief DW4 has clearly stated that sale deed dated 07.11.1986 bears his signatures as one of the attesting witness and have duly identified his signatures. He has also asserted that sale deed was prepared by Lal Chand-Deed Writer, Rohtak on the instructions of Jyoti/plaintiff and after preparing the same, it was read over and was duly made to understand. Thereafter, plaintiff and other witnesses had signed the same, all of them had appeared before the office of Sub-Registrar where Sub-Registrar had also read over the sale deed and made all of them to understand and then, both the parties as well as witnesses had duly signed before Sub-Registrar.

10. The above noted statement made by DW4 is being challenged by learned counsel for the appellant based on cross-examination and the fact that he has not stated about passing of consideration. In cross-examination also DW4 has duly stated that it was Lal Chand-Deed Writer who had typed the registry at 10:30 AM. At that time Krishan Kumar, Jyoti, Santro, Ranbir, Lal Chand and his assistant were present. It is also duly stated that after typing the registry, the same was read over and thereafter, Jyoti/plaintiff had signed the same, thereafter, Ranbir had signed and after that he had signed and thereafter, they had gone to their house.

11. No doubt that at one place DW4 has stated that he had reached Tehsil at 11:00 AM and in the next line he has stated that registry was typed at 10:30 AM. The above is a minor discrepancy and for this discrepancy the entire evidence of DW4 cannot be discarded. It must be kept in mind while



appreciating the evidence of witnesses that in present case DW was narrating occurrence of 07.11.1986 in year 2018 when he was examined i.e., after more than 32 years. It is very common that with passage of time we all make minor exaggerations or make minor omissions. The evidence of witnesses has to be read as a whole and not in parts as being suggested by learned counsel for the appellant. DW4 has duly asserted passing of consideration amount which is duly noted in the sale deed which was duly registered before the office of Sub-Registrar.

12. On consideration of evidence of DW4, I find that DW4 has duly asserted due execution of sale deed by plaintiff in presence of plaintiff, defendant and attesting witnesses. I do not find any reasons for discarding the evidence of DW4 for concluding that sale deed was not executed in accordance with law. It is worth noticing that Ex-P-2 sale deed dated 07.11.1986 goes to show that same was signed by Shanta Kumari as one of the witnesses who happens to be mother of plaintiff-appellant. Plaintiff – appellant has not challenged presence of her mother at the time execution of sale deed as one of the witnesses. Therefore, entire case of plaintiff that sale deed was result of impersonation crumbles.

13. Learned counsel for the appellant has also challenged the evidence of DW6 handwriting expert examined on behalf of defendant, on the ground that handwriting expert had not taken the admitted signatures of plaintiff from admitted documents. He has referred to order dated 11.01.2018 to argue that the sale deed was not on record as was claimed by handwriting expert on said date.

14. However, learned counsel for appellant has not referred to the evidence led by plaintiff-appellant herself. Plaintiff while appearing as PW1



had duly exhibited sale deed dated 07.11.1986. Further perusal of evidence of PW7 who was examined by plaintiff clearly goes to show that sale deed was duly produced on record by plaintiff by examining one Parvesh-Record Keeper from record room of DC Office, Rohtak who had appeared as PW7 and had duly produced copy of sale deed dated 07.11.1986 on 12.10.2017. This fact clearly goes to show that certified copy of sale deed was already available on court file and instead of taking signatures of plaintiff from photocopy the handwriting expert DW6 has rightly taken signatures of plaintiff from original sale deed which was duly kept in the office of Sub-Registrar. No fault with this conduct of DW6 can be found. He has rightly taken signatures from original sale deed which was in the official custody & part of official records.

15. Moreover, in the present case, surprisingly appellant is challenging taking of original signatures from original sale deed lying in the office of Sub-Registrar, on the other hand, handwriting expert examined by him as PW6 had not even taken the photographs from the sale deed on record, rather had taken the photographs of signatures of plaintiff from the record of some other case. Report of handwriting expert PW6 is liable to be rejected on this ground alone and report of DW6 is reliable and reasoned one.

16. In present case falsehood of plaintiff-appellant's case is clearly made out from evidence of PW-6 handwriting expert examined by plaintiff-appellant. It is the case of plaintiff-appellant that she had neither signed or thumb marked the sale deed and sale deed was result of fabrication and impersonation. Since sale deed dated 07.11.1986 is a registered document it carried not only signatures of plaintiff, defendant, and witnesses but it was also thumb marked along with signatures by both the parties and witnesses.



Both the parties had examined hand writing experts (one examined (PW-6) by plaintiff and another examined (DW-6) by defendant). Both have given contradictory reports regarding signatures. DW-5 asserted signatures to be different and not of plaintiff whereas DW-7 asserted signature on sale deed to be of plaintiff alone. Onus to prove that signatures and thumb impressions on sale deed were not of plaintiff was upon plaintiff-appellant who had alleged impersonation. Comparison of fingerprints and thumb marks is definite science based on scientific principle it is generally accurate and is not merely an opinion. However, comparison of signature is mostly based upon opinion and skill of examiner. The scientific backing as in case of fingerprint science is missing. Once sale deed is found to be thumb marked by plaintiff-appellant then it is plaintiff-appellant to explain its existence on sale deed specially when plaintiff-appellant had claimed that she had never signed and thumb marked the sale deed. The opinion of PW-6 that thumb marks were taken on blank papers is also of no help to the case of plaintiff-appellant and is wrong opinion arrived at by PW-6 to justify his hiring by plaintiff-appellant as it is not the case of plaintiff-appellant that she ever thumb marked sale deed on blank papers. PW-6 is trying to make new case which is not even pleaded or claimed by plaintiff-appellant. She is bound to explain presence of thumbmarks on sale deed when she is claiming that she had not marked it. Evidence of PW6-handwriting expert, cannot be relied upon to conclude that plaintiff had not signed the sale deed dated 07.11.1986. In fact, plaintiff/appellant has failed to prove that sale deed dated 07.11.1986 was result of fraud and fabrication or impersonation. Mere claim that sale deed was result of impersonation does not constitute suspicious circumstance. It was for plaintiff/appellant to show fraud or impersonation but there is none.



In fact, evidence of PW-6 goes to prove and corroborate evidence lead by defendant to prove due execution of sale deed by plaintiff-appellant.

17. One of the attesting witness of this sale deed is Shanta Kumari, who is mother of the plaintiff. There is no pleading or evidence of plaintiff that her mother did not put her signatures on the said sale deed as an attesting witness. During her cross-examination the plaintiff deposed that her mother died on 22.02.2010. The plaintiff did not produce any evidence to show that this sale deed does not bear the signatures of her mother.

18. Both the courts have rightly held that present suit is also barred by limitation. In present case plaintiff-appellant had sought declaration alone that sale deed executed on 07.11.1986 is result of fraud and impersonation by way of suit filed on 14.01.2014. The challenge after 27 years after execution of sale deed had to be justified by plaintiff-appellant by leading cogent evidence as sale deed could be challenged within three years. Mere oral assertions by itself cannot be accepted by courts to justify knowledge about an act to enlarge scope of period of limitation. Courts are duty bound to appreciate evidence led by parties in totality of facts and circumstances of each case. The onus to prove date of knowledge to avoid limitation is heavy onus, which party alleging / asserting needs to discharge. Unless onus to prove date of knowledge is discharged by cogent evidence the courts must be extremely slow in interfering in time barred matters. Courts must not allow themselves to be used by unscrupulous litigant to harass other side. It must be kept in mind by courts that it becomes extremely difficult for defendant to prove due execution of documents after passing of time specially when challenge is made after 15 plus years as human memory fades, corroborating evidence is erased / destroyed or weeded out. Post office records, telephone



records and similar evidence are weeded out and in many case even witnesses dies and are not available. Allowing a time barred case is just giving premium to person who himself/herself was negligent / has become dishonest with passing time due to many fold appreciation in value of immovable property. In present case plaintiff had merely stated that on 25.12.2012 when her husband visited the suit property, defendant appeared and claimed suit property. This statement was reiterated by plaintiff as well as her husband while appearing as witnesses. However mere assertions by itself are not sufficient to accept date of knowledge as being asserted by plaintiff-appellant. Plaintiff-appellant has claimed possession of property which was found to be having construction over it by local commissioner. However, no evidence except for self serving evidence about possession was adduced by plaintiff-appellant to show her possession. In fact, site plan Ex. P-1 shows no construction over the property. Defendant had specifically averred having raised construction and was found existing by local commissioner. It is admitted by plaintiff herself that she had been getting part of suit property vide different mutation as late as in 2010 after death of her mother Shanta Kumari. No criminal case of fraud was ever lodged by plaintiff against defendant when plaintiff is claiming impersonation which she had failed to prove. A person who had got registered sale deed for consideration would not keep said document to himself and would put claim on property openly. Therefore, in present case oral assertions regarding alleged date of knowledge is totally unbelievable considering facts and circumstances of this case. Since undersigned had heard three different appeals filed by plaintiff-appellant challenging sale deeds and General power of attorney executed by her on 06.08.1986 and 07.11.1986 in favour of different persons in presence of



different attesting witness with thumb marks of plaintiff-appellant, it is clear case where plaintiff-appellant is wanting to take benefit of passing of 27 years in view of many fold increase in price of land by making allegations which she has failed to prove and rather are proved to be false. The suit preferred by plaintiff-appellant is hopelessly time barred and is liable to be dismissed on this ground alone.

19. The principle stated in the judgments referred by learned counsel for the appellant are not in dispute. However, none of them is applicable in view of findings on facts in present case which are based on appreciation of evidence and after applying principles of law stated in judgments referred. It is not in dispute that onus to show a document to be forged and fabricated is only to be discharged by the person claiming document to be forged and fabricated, after due execution of document is proved. It is, thereafter, the duty of the person who is claiming fraud to prove the fraud and show suspicious circumstances over due execution of document under challenge.

20. I do not find any error in the approach of learned Courts below as both the Courts have concluded that defendant has succeeded in proving due execution of sale deed, which is a registered document by examining defendant as well as attesting witnesses and handwriting expert, who had duly proved the signatures of plaintiff as well as thumb marks of plaintiff-appellant over sale deed. The onus cast upon defendant in the present case has been duly discharged by defendant and it was thereafter, duty of plaintiff to show that sale deed dated 07.11.1986 was result of fraud, fabrication, and misrepresentation which she has failed to prove.

21. Concurrent finding of facts therefore, cannot be faulted with and accordingly affirmed. No question of law arises in the present case. Appeal is



accordingly dismissed.

22. Pending miscellaneous application(s), if any, shall also stand disposed of.

17. 09.2025  
chiranjeev

(PARMOD GOYAL)  
JUDGE

Whether Speaking/Reasoned : Yes/No  
Whether Reportable : Yes/No