

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.2367 OF 2010

KRISHNA DEVI

... APPELLANT

VERSUS

KESHRI NANDAN

... RESPONDENT

J U D G M E N T

S.ABDUL NAZEER, J.

1. Parties in this appeal are close relatives. Krishna Devi, the appellant/plaintiff is the daughter of Dharam Singh. Mathura Prasad, the second defendant was the brother of Dharam Singh and Keshri Nandan respondent/defendant No. 1 is the son of Mathura Prasad. The appellant filed the suit O.S No. 196/1992 against Keshri Nandan and Mathura Prasad for partition and separate possession of half share in the suit scheduled property. It is her case that the property originally belonged to her grandfather Banshi Dhar. After Banshi

Dhar's death, her father Dharam Singh and her paternal uncle Mathura Prasad have

succeeded to the said property and after the death of her father Dharam Singh, she is entitled for half share in the said property.

2. The defendants have opposed the suit. It is contended that Dharam Singh had executed a sale deed in respect of his fifty per cent share in the said property in favour of the first defendant. The plaintiff filed a reply to the written statement contending that the sale deed said to have been executed by Dharam Singh has been obtained by fraud and mis-representation and hence, the said sale deed is not binding upon her.

3. The trial court on appreciation of materials on record held that the sale deed said to have been executed by Dharam Singh did not confer any right, title or interest on the defendants. Consequently, the suit was decreed. The defendants challenged the said decree by filing Civil Appeal No. 60 of 2001 before the Additional District Judge, Gurgaon. The first Appellate Court set aside the judgment of the trial court and allowed the appeal. The second appeal filed by the appellant/plaintiff was dismissed by the High Court.

4. Having heard the learned counsel for the parties, we do not find any merit in this appeal. It cannot be held that the sale deed dated 11.07.1991 executed by Dharam Singh was obtained by fraud or by mis-representation. It is clear that when the sale deed was executed by Dharam Singh, he was having sound state of mind. The Sub-Registrar, who had registered the documents was examined as

DW-3. In his evidence he stated that the sale deed was executed by Dharam Singh after he had explained to the parties about contents of the said deed. Ex. D-1 was attested by PW-2 and PW-3. They have nowhere stated in their statements that Dharam Singh was not in good state of mind at the time of the execution of the document. Though it is contended on behalf of the appellant that Dharam Singh was not keeping well, no medical evidence has been produced in support of the said contention. We do not find any ground to interfere with the judgment of the High Court.

5. Consequently, the appeal is dismissed, with no orders as to costs.

.....J.
(N.V. RAMANA)

.....J.
(S. ABDUL NAZEER)

New Delhi;
March 21, 2018.