



**In The Court of District Judge, Kannauj**

Presiding Officer- Shri Chandroday Kumar (HJS)-UP06553

Civil Appeal No. 36 of 2017

Keshram, son of Lila, resident of Chaurachandpur, Tehsil- Kannauj, District-  
Kannauj ..... Appellant/Plaintiff

Versus

1. Putti Lal, son of Makhan, and

2. Hariram, son of Jhammanlal

Residents of Salempur Tara Bagar, Pargana, Tehsil and District- Kannauj

.... Respondants/Defendents

**JUDGEMENT**

This civil appeal has been filed against the judgment and decree dated May 16, 2017, by which learned Civil Judge, Junior Division, Kannauj, dismissed with costs the Original Suit No. 203 of 2008: Keshram versus Putti Lal and another regarding the cancellation of the sale deed.

2. The key facts of the case are as follows: The plaintiff, Keshram, filed an original suit against the defendants for the cancellation of a registered sale deed. He claims to be illiterate. The defendants, Puttilal and Hariram, took him to the tehsil under the pretence of helping him apply for an old age pension. They obtained his thumb impression on blank stamp papers and photographs.

3. Fraudulently, with the assistance of their accomplice who prepared the sale deed and some witnesses, the defendants executed a sale deed on October 1, 2007, for a piece of revenue land (number 284 Ka) measuring 0.47 hectares located in Chaura Chandpur Kachhoha. This deed was executed in their favour without any consideration.

4. When the defendants threatened to take possession of the land above based on the sale deed, Keshram became concerned and submitted a questionnaire. He then discovered the defendants had executed the sale deed without his knowledge or consent, as he had no intention or need to sell the land.

5. The defendants submitted a written statement denying the plaintiff's claims, stating they purchased the land for Rs 65000. They have not committed fraud; instead, the plaintiff has acted dishonestly.

6. The trial court framed the following issues:

1. Whether the plaintiff holds rightful ownership and has the land in dispute as stated in the plaint.
  2. Whether the plaintiff possesses the legal right to seek the cancellation of the sale deed executed on October 1, 2007.
  3. Whether any cause of action arose against the defendants.
  4. Whether the suit valuation is undervalued.
  5. Whether the court fee is insufficient.
  6. What relief is the plaintiff entitled to?
7. After evaluating the evidence presented by both parties, the learned Civil Judge (JD) dismissed the suit with costs, concluding that the plaintiff failed to substantiate his claims. The issues were addressed as follows:
1. Positive and in favour of the plaintiff, finding that at the time of the sale deed, the plaintiff held rightful ownership and had the land in dispute.
  2. Negative and against the plaintiff, finding that the plaintiff possesses no legal right to seek the cancellation of the sale deed.
  3. Negative and against the plaintiff, finding no cause of action arose.
  4. Negative, finding that the suit valuation is proper.
  5. Negative, finding that the court fee paid is sufficient.
  6. Negative.
8. The appellant has taken the following grounds of appeal in the appeal memo:
- 1- That the impugned judgment and decree passed by the subordinate court are against reality and the law.
  - 2- The subordinate court has committed a grave legal mistake in passing the impugned judgment and decree.
  - 3- The subordinate court did not correctly examine the oral and documentary evidence produced by the appellant plaintiff and committed a grave mistake in passing the impugned judgment.
  - 4- The appellant has proved his statements very well through his oral and documentary evidence. Still, the conclusion arrived at by the subordinate court in point no. 2 by ignoring his oral and documentary evidence is against reality and the law.
  - 5- The appellant plaintiff is an illiterate rural person. This fact was also accepted by the respondent in his evidence, and the plaintiff/appellant proved that he did not need money; hence, he did not need to sell the land, nor did he have any conversation with the respondent regarding the sale, and he was not given any consideration. He was merely called on the pretext of old age pension, and the deed was fraudulently executed. If the appellant needed money, why would he sell his valuable

land of about six bighas for only Rs. 65,000? The subordinate court did not pay attention to this fact and committed a grave legal error in passing the impugned judgment and decree.

6- The deed has not been executed yet. The respondent/defendant has no possession of the said property up to date. Instead, the appellant/plaintiff has been cultivating it by remaining in possession.

7- The appellant is likely to suffer a significant loss if the judgment and decree passed by the subordinate court remain in force because the appellant has proved his statement with oral and documentary evidence. Therefore, cancellation of the judgment and decree and dismissal of the appellant's suit is a matter of justice.

9. I have carefully considered the arguments of both parties' learned counsels and conducted a thorough review of the trial court records.

10. It is a well-established principle that evidence outside the pleadings is not admissible. Therefore, the lack of consideration or inadequate consideration falls outside the examination scope since the plaintiff did not plead it. Nonetheless, the trial court examined this matter in detail. Referring to document 56 A, which contains information from the bank, the trial court found that the plaintiff's loan account was closed on the same day the sale deed was executed. This led to the conclusion that the loan account was settled through repayment to the bank and that the plaintiff needed funds. The trial court rejected the argument that the loan was repaid by the money received by the sale of crops for want of proof of crop sale receipt produced by the plaintiff. Additionally, the incorrect description of the metes and bounds of the property in question has not been articulated. Consequently, this aspect does not require consideration by this appellate court. Furthermore, the sale deed for agricultural land has been executed based on the designated plot number 284 Ka, which can be identified through the corresponding entry in the revenue records.

11. Regarding the cancellation of the sale deed, it is unnecessary to consider possession. The trial court resolved Issues four and five based on mutual agreement and have not been contested in this appeal; therefore, they do not warrant further examination. Additionally, these issues are solely relevant to the trial court and the plaintiff, as they pertain to the valuation of the suit and associated court fees. The only point for determination is whether the sale deed was executed fraudulently under the pretence of securing an old-age pension.

12. The certified copy of the sale deed, paper number 8C1, executed on February 1, 2007, is duly registered in the office of the Sub-Registrar, Kannauj. Plaintiff Keshram did not disclose his age in his suit. During cross-examinations conducted on December 8, 2011, and February 9, 2017, PW1, Keshram acknowledged his age as 62 and 65, respectively. Consequently, he could not have been 60 years old in 2007. So, there was no question of an old age pension.

13. PW1, in his cross-examination, stated that he does not know whether Puttilal and Hariram acted on mutation. He has not filed any objection to any action of mutation. He does not know whether a mutation is done or not. He does not know whether any objection was filed or not. When he got the copy of the sale deed, he learned that he was deceived into writing the sale deed. He did not make any complaint in this regard to the police authorities. He did not get a report filed. He does not know Govind Madari of Salimpur. He has no enmity with him. When he came to know about the sale deed and whether he had made any enquiry from Ganga Ram and Govind, the witness did not answer this question. Then he said that he asked Ganga Ram, one of the two witnesses, why he got the sale deed written by deceit, and Ganga Ram said that he would beat him.

14. Paper number 52C1 submitted by the defendants is a certified copy of the objection of the plaintiff dated November 14, 2007, on mutation proceeding before Tehsildar, Kannauj, wherein plaintiff denies his thumb impression on sale deed and states that witnesses of sale deed lived in the village of defendants. On the one hand, this witness is stating his thumb impression on blank stamp papers. On the other hand, he denies his thumb impression and mutation. Due to these contradictions, the credibility of the plaintiff shakes. Plaintiff's witness PW2 denies his presence at the time of the sale deed execution. He states that the plaintiff told him in 2008 that the sale deed was executed by deceit. So, this witness is hearsay is hearsay. Defendant Hariram and their witnesses DW2 Govind and DW3 Gangaram, who are witnesses of the sale deed, have testified that they witnessed the execution of the sale deed. Everything regarding the sale deed was told to the plaintiff, and no deceptive tactics were played. The mere fact that DW3 is relative to the plaintiff is insufficient to discredit the witness. The sale deed is registered, and two witnesses of the sale deed do not support the plaintiff's case. Hence, the trial court rightly rejected the plaintiff's suit. The appeal deserves to be dismissed with costs.

**ORDER**

This appeal is dismissed with costs.

**Date: January 22, 2025**

**(Chandroday Kumar)  
Sessions Judge,  
Kannauj.**

I signed, dated and proclaimed the judgment in open court today.

**Date: January 22, 2025**

**(Chandroday Kumar)  
Sessions Judge,  
Kannauj.**