

Unregistered document - When the execution of an unregistered document put forth by the plaintiff was denied by the defendants, the ruling that it was for the defendants to establish that the document was forged or concocted is not a sound proposition - The first appellate Court proceeded on the basis that it is for the party who asserts something to prove that thing; and as the defendants alleged that the agreement was forged, it was for them to prove it - But the first appellate Court lost sight of the fact that the party who propounds the document will have to prove it. It was the plaintiff who had come to Court alleging that the first defendant had executed an agreement of sale in his favour. The defendant having denied it, the burden was on the plaintiff to prove that the defendant had executed the agreement and not on the defendant to prove the negative.

Held,

The trial court had analyzed the evidence properly and had dismissed the suit by giving cogent reasons. The first appellate court reversed it by wrongly placing onus on the defendants. Its observation that when the execution of an unregistered document put forth by the plaintiff was denied by the defendants, it was for the defendants to establish that the document was forged or concocted, is not sound proposition. The first appellate court proceeded on the basis that it is for the party who asserts something to prove that thing; and as the defendants alleged that the agreement was forged, it was for them to prove it. But the first appellate court lost sight of the fact that the party who propounds the document will have to prove it. In this case plaintiffs came to court alleging that the first defendant had executed an agreement of sale in favour. The first defendant having denied it, the burden was on the plaintiff to prove that the first defendant had executed the agreement and not on the first defendant to prove the negative. The issues also placed the burden on the plaintiff to prove the document to be true. No doubt, the plaintiff attempted to discharge his burden by examining himself as also scribe and one of the attesting witnesses. But the various circumstances enumerated by the trial court and High Court referred to earlier, when taken together, rightly create a doubt about the genuineness of the agreement and dislodge the effect of the evidence of PW 1 to 3. We are therefore of the view that the decision of the High Court, reversing the decision of the first appellate court, does not call for interference.

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