

(2025-1)216 PLR 757 (SN)

PUNJAB AND HARYANA HIGH COURT

Before: Justice Vikram Aggarwal

BALWANT SINGH – Appellant

versus

DARBARA SINGH and another – Respondents

RSA No.1550 of 2024 (O&M)

- **Suit - Fraud - Burden of Proof - Plaintiff's Duty to Prove Case - Where fraud is pleaded in a civil suit, it has to be proved beyond reasonable doubt and not merely by allegations - The plaintiff must prove their own case by leading cogent evidence - Weakness in the defendant's case does not come to the aid of the plaintiff - Mere allegation of fraud without sufficient evidence to even prima facie prove the contention will not suffice.***Union of India v. M/s Chaturbhai M. Patel & Co. AIR 1976 SC 712 - followed*

“It is settled law that a fraud has not only to be pleaded but has to be proved beyond reasonable doubt... Instead of proving the same beyond reasonable doubt, the plaintiff practically produced no evidence to even prima facie prove his contention.”

“It is settled law that the plaintiff was to prove his own case by leading cogent evidence and the weakness, if any, in the case of the defendants would not come to the aid of the plaintiff.” [Para 13, 15]

- **Evidence - Adverse Inference for Non-Appearance in Cross-Examination - When a party initially appears as a witness and files affidavit in examination-in-chief but fails to appear for cross-examination, their examination-in-chief is rightly not considered and adverse inference is drawn against such party.**

“The plaintiff initially appeared as PW1 and his son Parwinder Singh appeared as PW3. Both tendered their affidavits in examination-in-chief as Ex.PW-1/A and PW-3/A respectively. However, none of them turned up for cross-examination as a result of which, their examination-in-chief was also rightly not considered. The plaintiff clearly avoided being cross-examined.” [Para 13, 15]

- **Execution of Documents - Reasonable Expectation of Understanding - It is hard to believe that a person with sound mind would sign or affix thumb impressions on multiple documents without reading them or understanding their nature - Even during registration process, a reasonable person would be expected to know what documents are being executed. Courts would not**

readily accept claims of ignorance about document contents without substantial proof.

“Even if the matter is examined, without any evidence from the side of the plaintiff, it is hard to believe that someone would sign or thumb mark many documents without even reading them or without understanding the nature of the documents. It is further hard to believe that even at the time of registration, the plaintiff did not come to know as to what documents were to be executed.”

[Para 16]

Facts : Plaintiff Balwant Singh sued his brother Darbara Singh and nephew Gurdip Singh for joint possession and permanent injunction over suit property. Plaintiff alleged that defendant No.1 fraudulently obtained power of attorney dated 22.12.2010 and executed sale deeds dated 26.07.2011 and 01.01.2013 in favor of defendant No.2 without plaintiff’s knowledge. Defendants contended plaintiff had taken loan of Rs.12 lakhs and executed documents in satisfaction thereof, producing affidavits of plaintiff’s family members. Both trial court and first appellate court dismissed the suit. The second appeal was also dismissed as plaintiff and his son failed to appear for cross-examination and practically led no evidence to prove fraud.

Mr. Lalit Pathak, for the appellant.

Vikram Aggarwal, J. - (28.04.2025) -

Full text reported as **2025 PLRonline 468857**

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