

HRRE020013472018



Presented on : 08-08-2018
Registered on : 08-08-2018
Decided on : 13-08-2026
Duration : 8 years, 0 months, 5 days

**IN THE COURT OF
Additional Civil Judge (Senior Division) AT ,Rewari
Presided Over by Ms. Jogindri**

CS/2615/2018

Ramniwas son of Sh. Dhanpat son of Sh. Thawaria resident of Village Berli Khurd, Tehsil and District Rewari.

....Plaintiff

Versus

1. Dharmender
 2. Satender sons of Sh. Ramniwas son of Sh. Dhanpat
- Both are residents of Village Berli Khurd Tehsil and District Rewari.

.... Defendant

Suit for Declaration And Permanent Injunction With Consequential Relief.

Present:- Shri Ramphal Yadav, Advocate for the plaintiff.
Defendants exparte vide order dated 20.10.2018.

JUDGMENT

1. The present suit is the suit for declaration and permanent injunction along-with consequential relief filed by the plaintiff against the defendants.

2. The plaintiff vide the present plaint has briefly averred that the plaintiff, a retired Delhi Police employee and senior citizen, claims to be the owner in possession of agricultural land measuring 62 Kanal 19 Marla, comprised in Khewat No. 229, Khatoni No. 265, situated in the revenue estate

of Village Berli Khurd, Tehsil and District Rewari, detailed as under: Rect. No. 43, Killa No. 25/1 (7-12); Rect. No. 44, Killa Nos. 19 (8-0) and 22 (8-0); Rect. No. 49, Killa Nos. 2 (8-0), 9/1 (7-11), 12 (8-0), 19 (8-0) and 18/2 (0-4); and Rect. No. 50, Killa No. 5/1 (7-12), comprising 9 kitas and his 252/424 share. It is pleaded that the said land was his only source of livelihood. The plaintiff alleges that defendants No. 1 and 2, his sons, by giving false assurances to maintain him and provide basic necessities, fraudulently procured execution of Release Deed Vasika No. 6324 dated 02.11.2006 in their favour, under coercion and undue influence. It is further alleged that after execution of the deed, the defendants failed to maintain the plaintiff and subjected him to abuse and ill-treatment. The plaintiff, whose wife has expired, claims to be living alone without proper maintenance or medical assistance. He therefore seeks declaration of the release deed dated 02.11.2006 as null and void and permanent injunction restraining the defendants from alienating the suit property. The plaintiff alleges that despite his request, the defendants refused to cancel the deed/refrain from alienating the property on 07.08.2018. Hence, this suit.

3. Notice of this suit was served upon the defendant, however despite due service of notice none appeared on behalf of defendant and therefore defendant was proceeded against exparte vide order dated 20.10.2018.

4. Thereafter, plaintiff was called upon to lead its exparte evidence so as to make out a prima-facie case in its favour and the plaintiff in order to do so, first of all plaintiff got examined himself as PW1, who tendered his duly sworn

affidavit i.e. Ex.PW1/A, vide which he reiterated the contents of the plaint in letters and spirit, as have been discussed in detail in Para No.2 of this judgment and are therefore, not repeated here again for the sake of brevity. Thereafter, plaintiff evidence was closed by court order on 06.07.2026.

5. This Court has heard learned counsel for the plaintiff and has perused the case file very carefully.

6. The plaintiff has filed the present suit seeking a declaration that Release Deed bearing Vasika No. 6324 dated 02.11.2006 is null and void and not binding upon his rights, along with the consequential relief of permanent injunction restraining the defendants from creating any charge over the suit land, as detailed in paragraph No. 1 of the plaint. The entire case of the plaintiff is premised upon the assertion that he has been coming in possession of the suit land, measuring 62 Kanal 19 Marla, as its owner, as detailed in paragraph No. 2 of the plaint, and that the said land is the only source of his income for fulfilling the basic necessities of life. It is alleged that defendants No. 1 and 2, who are his real sons, allured him into alienating the suit land in their favour by falsely assuring him that they would fulfill and provide him with all basic necessities of life. Pursuant thereto, he executed and got registered Release Deed bearing Vasika No. 6324 dated 02.11.2006 in respect of the suit land. However, thereafter, the defendants resiled from their promise and, therefore, according to the plaintiff, the execution of the said Release Deed was the result of coercion, undue influence and fraud practiced upon him by the defendants. It has further been pleaded that the suit land is his ancestral/coparcenary property, as reflected in the Release Deed, which refers

to Mutation No. 1217 sanctioned on 12.07.1981, Mutation No. 39 entered and sanctioned on 11.12.1940, and Mutation No. 451 entered and sanctioned on 28.01.1920. It is well settled that a plaintiff has to prove his case on his own legs and cannot derive any benefit from the non-appearance of the defendant or from any weakness in the defence. In the present case, the plaintiff has disputed the duly executed and registered Release Deed bearing Vasika No. 6324 dated 02.11.2006; however, significantly, the said document has not been placed on record in any manner whatsoever. The plaintiff appeared in the witness-box as PW1 and deposed through his duly sworn affidavit. However, merely on the basis of his oral averments, a case which otherwise requires proof through cogent, convincing and reliable evidence, no relief can be granted in his favour.

7. First and foremost, the plaintiff has failed to prove the ancestral nature of the suit land or the alleged exercise of coercion, undue influence, fraud or misrepresentation upon him by the defendants. Merely asserting that the defendants, being his real sons, played fraud upon him, misrepresented facts or exercised undue influence would not suffice unless such allegations are substantiated by cogent and convincing evidence. As per his own statement, the Release Deed is a registered document. A duly registered document cannot be set aside merely on the asking of a party, particularly when the very document sought to be challenged has not been produced and proved on record. It is equally well settled that allegations of fraud, misrepresentation, coercion and undue influence, even in civil proceedings, have to be established by clear, cogent and convincing evidence

commensurate with the gravity of the allegations. However, in the present case, apart from the oral testimony of the plaintiff, which itself is not supported by the document in question or any other substantive evidence, nothing has been brought on record to substantiate these allegations. There is, therefore, no material in support of the plaintiff's case which could entitle him to the relief sought. Consequently, the plaintiff has failed to discharge the burden of proving that the Release Deed bearing Vasika No. 6324 dated 02.11.2006 is vitiated by fraud, coercion, undue influence or misrepresentation, or that the suit land is ancestral/coparcenary property in the manner alleged.

RELIEF:

8. In view of the above said discussion, the suit filed by the plaintiff stands dismissed without cost. Un-exhibited documents, if any, be returned to the respective parties as per rules, if so desired. Decree sheet be prepared accordingly and the file be consigned to the record room after due compliance.

Announced in open Court.

(Jogindri),
Addl. Civil Judge (Sr. Division),
Rewari. 13.08.2026
UID No. HR-0328

Note:- All the five pages of this judgment have been dictated, checked and signed by me.

(Jogindri),
Addl. Civil Judge (Sr. Division),
Rewari. 13.08.2026
UID No. HR-0328

Saroj Kumari,
Stenographer-II