



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 9th July, 2026

Pronounced on: 1st October, 2026

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RSA 69/2022, CM APPL. 29386/2022

SMT. RANI

W/o Sh. Ashok Kumar

R/o H.No.A-128, Second Floor,

Ganesh Nagar, Delhi.

...Appellant

Through: Mr. Sachin Sharma, Advocate.

versus

**SH. RAM SARUP (SINCE DECEASED_
Through LRs**

1. **SMT. KUSMA**
W/o Sh. Mahavir Singh
R/o Village Jalani
District Aligarh, U.P.
2. **SMT. SHARDA**
W/o Sh. Jaipal Singh
R/o Om Vihar, Phase-5,
Vijay Nagar, Delhi.
3. **SMT. BIMLA**
W/o Sh. Chiranji Lal
R/o A-107, Gali No.3, Bihari Colony,
Shahdra, Delhi-32.
4. **SMT. SUNITA**
W/o Sh. Attar Singh
R/o H.No.B-287-84, Avantika,
Rohini, Sector-1, Delhi-85.

...Respondents



Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular Second Appeal under Section 100 read with Order XLII of the CPC is filed against the judgment dated 23.11.2021, whereby the First Appellate Court upheld the Judgment and Decree dated 09.04.2018 passed by the Learned Civil Judge, whereby Suit of the plaintiff was decreed and *the Sale Deed dated 08.03.2006 was cancelled and the Defendant/Appellant Smt. Rani was directed to hand over the peaceful, vacant possession of the suit property to the Plaintiff.*
2. The Plaintiff, Sh. Ram Saroop had filed **Suit No. 229/2013** seeking a Declaration by way of cancellation of the Sale Deed dated 08.03.2006 and also Mandatory Injunction directing the Defendant to hand over the peaceful and vacant possession of the portion of the suit property, to the Plaintiff.
3. The Plaintiff, a senior citizen aged about 90 years, was the owner of purchased property bearing No. A-128, Municipal No. WZ-2/50, ad-measuring about 60 square yards, situated in the revenue estate of Village Nangli Jalib, in the colony known as Ganesh Nagar, New Delhi, from him own funds and raised construction, thereon. The property is assessed to Property Tax, in the name of the Plaintiff.



4. The Plaintiff had five daughters, namely Kusma, Sharda, Bimla, Rani and Sunita. The Plaintiff claimed that he had spent a considerable amount on their respective marriages and they were all well-settled in their families. *The Plaintiff, in good faith, told his daughter Rani/Defendant that he intended to give an equal share in the suit property to all the five daughters,* and further requested her to take him to the office of the Sub-Registrar, for **execution of the Will**. The Defendant, however, got the **Sale Deed executed** in respect of the suit property in her name, instead of the Will. In the Sale Deed, the sale consideration was shown as ₹1 lakh, whereas the value of the property was claimed to be more than ₹60 lakhs.

5. The Plaintiff was under the impression that he had executed a Will and, after the execution of the document, requested the Defendant to give a copy to him, but she refused to do so. The Plaintiff got suspicious and with the help of his other daughters, obtained the certified copy of the registered document. On obtaining the certified copy, the Plaintiff came to know that the Defendant had played *fraud upon him, by getting a Sale Deed registered* instead of the Will.

6. The Plaintiff claimed that he had no intention to execute the Sale Deed in the name of the Defendant, Rani as his intention had always been to give an equal share to all the daughters. It is claimed that the Sale Deed is void because no sale consideration in respect of the suit property, was received by the Plaintiff and he had no intention to transfer the property in favour of the Defendant.



7. The Plaintiff asserted that, being an illiterate person with poor eyesight and being aged about 90 years, he had been betrayed by his own daughter in procuring the Sale Deed.

8. The Plaintiff further asserted that the Defendant had been threatening him with dire consequences, in case any action was taken by him. The Plaintiff claimed that, because of her fraudulent conduct, he had disinherited her from all his movable and immovable properties. The Sale Deed was alleged to have been procured by fraud. It was further asserted that the Defendant was a licensee in respect of the portion of the suit property, which was in her possession. *The licence had been terminated, and she had no right to retain possession of the property.*

9. The Plaintiff had made a complaint to the SHO and other Authorities, on 18.09.2013. A Legal Notice dated 20.09.2013 was sent by the Plaintiff calling upon the Defendant to treat the Sale Deed as illegal and void. Thereafter, the *Suit was filed for Cancellation of the Sale Deed* dated 08.03.2006 in favour of the Defendant and for *Mandatory Injunction* directing her to vacate and hand over peaceful possession of the portion in her possession, to the Plaintiff.

10. **Smt. Rani, the Defendant, in her Written Statement,** asserted that the Plaintiff had been *misguided by the other daughters*, who had a vested interest and who did not like the Defendant taking care of her father. She Defendant asserted that the Plaintiff had been residing with her in the Suit Property till 30.09.2013, on which date the other sisters came to the premises, created a scene and even threatened the Defendant. A Complaint



dated 30.09.2013, vide DD No. 60-B, was got lodged, in respect of the said incident.

11. The Defendant further asserted that the Plaintiff had sold the suit property to her through a registered Sale Deed, after receiving the sale consideration, in the year 2006. It was further asserted that at the behest of the other daughters, the Plaintiff had given a wrong address of the Defendant. She claimed that the address given in the Memo of Parties, was under litigation, which had been pending for the last seven years. It was further stated that the addresses WZ-51-A, Ganesh Nagar, New Delhi-18 and A-128, Ganesh Nagar, were of the same property. The Defendant was residing on the third floor of the property in question, while the remaining floors were tenanted and the Defendant was the owner thereof.

12. The Defendant, claimed that the Plaintiff had not approached the Court with clean hands and had suppressed material facts. There was no cause of action whatsoever, to file and institute the present Suit, as the registered Sale Deed dated 08.03.2006 had already been executed in her favour and the Plaintiff had already received and enjoyed the sale consideration of ₹1,00,000/-. The Plaintiff, having sold the property, had ceased to be the owner and, therefore, could not execute any testamentary document in respect of the said property, in the year 2013.

13. The Plaintiff had been in good relationship with the Defendant and his other daughters between 2006 and 2013, and during these seven years, the Plaintiff had not raised any alarm. The Plaintiff, while executing the Sale Deed, was aware of the correct facts and was also aware that the Defendant was residing at the said address, despite which he had mentioned a wrong



address of the Defendant, in the plaint/suit. All the averments made in the Plaint were denied and it was asserted that the Suit was liable to be dismissed.

14. The Plaintiff in the ***Replication*** reaffirmed the assertions made in the Plaint and denied the allegations made in the Written Statement.

15. The **Issues on the pleadings, were framed on 22-01-2015**, as under:

- (i) *Whether the suit of the Plaintiff is entitled to the decree of declaration as prayed for? OPP*
- (ii) *Whether the Plaintiff is entitled to the decree of mandatory injunction as prayed for? OPP*
- (iii) *Relief.*

16. PW-1 Smt. Sunita, LR of Plaintiff, tendered her evidence by way of Affidavit Exhibit PW-1/A. In her testimony, she exhibited the following documents:

Sr. No.	Nature of the documents	Exhibited as
1	Photocopy of the election ID card, Aadhar Card and Ration Card of deceased Ram Swaroop	Ex.PW1/1 (colly.)
2	Site Plan	Ex.PW1/2
3	Copy of Sale Deed	Ex.PW1/3
4	Copy of Will	Ex.PW1/4
5	Original complaint dated 18.09.2013 along with courier receipts, copy of the complaint dated 01.10.2013 made to SHO by deceased Ram Swaroop and copy of the complaint dated	Ex.PW1/5 (colly.)



	01.10.2013 made to DCP West Dist. Rajouri Garden	
6	Legal notice along with courier receipts dated 20.09.2013	Ex.PW1/6

17. PW-2 Amit Kumar Sehrawat, Record Keeper, Record Room Criminal, Tis Hazari Court, produced the FIR No. 0407 under Section 420/406 IPC, PS Janakpuri, which has been consigned to record room vide Goshwara No. 492/2011, Exhibit PW-2/1.

18. The Defendant examined herself as **DW-1** and tendered her affidavit of evidence as DW-1/A. The documents exhibited by her are as under :

Sr. No.	Nature of the documents	Exhibited as
1.	Copy of Aadhar Card of the Plaintiff	Ex.DW1/1 (OSR)
2.	Copy of Voter I/Card of Defendant	Ex.DW1/2 (OSR)
3.	Copy of Aadhar Card of Defendant	Ex.DW1/3 (OSR)
4.	Copy of Voter I/Card of Plaintiff	Mark X
5.	Copy of PAN Card of Defendant	Ex.DW1/4 (OSR)
6.	Copy of Ration Card of Plaintiff	Ex.DW1/5 (OSR)
7.	Police Complaint bearing DD No. 60B dated 30.09.2013	Ex.DW1/7
8.	Copy of Sale Deed dated 08.03.2006	Ex.DW1/8 (OSR)



9.	Copy of Attendance Register for the month of August onwards	Ex.DW1/9
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19. The ***Learned Civil Judge***, on appreciation of the evidence, considered in detail the contradictions in the testimony of the Defendant and, taking note of the complaint lodged by the Plaintiff and the other evidence on record, concluded that the *Sale Deed had been procured by the Defendant, by playing fraud upon the Plaintiff* and, accordingly, held that the Sale Deed dated 08.03.2006 had been fraudulently obtained. *The Sale Deed was consequently, declared to be cancelled and the Defendant was directed to hand over the peaceful and vacant possession of the suit property to the Plaintiff.*

20. Aggrieved, the Defendant/Appellant Smt. Rani filed a **First Appeal** bearing RCA/DJ No. 65/2018, challenging the cancellation of the Sale Deed and grant of Mandatory Injunction.

21. The ***First Appellate Court***, on re-appreciation of the evidence and the record, ***concurred with the findings of the Learned Civil Judge*** that the Defendant had procured the Sale Deed by playing fraud upon the Plaintiff. The First Appellate Court also took note of the police complaint and Legal Notice issued by the Plaintiff, as well as the Defendant's failure to establish payment of the sale consideration, **and accordingly upheld the Judgment and Decree dated 09.04.2018.**

22. *Aggrieved by the dismissal of the appeal, the present Second Regular Appeal has been filed.*



23. The ***grounds of challenge*** are that, except for some bald averments in paragraphs 5 and 6 of the Plaint that the Plaintiff was an illiterate, aged person of about 90 years and was suffering from various health issues, no explanation or particulars of the circumstances in which the alleged undue influence was exercised by the Defendant/Appellant, have been given.

24. Section 101 of the Indian Evidence Act lays down that the initial burden of proof lies on the Plaintiff to establish a prima facie case of undue influence and fraud, and it is only then that the onus shifts to the Defendant. It was contended that the Plaintiff had not led any cogent evidence in support of the averments of undue influence and fraud.

25. It was further contended that the Sale Deed was a registered document, which carries with it the presumption of correctness and genuineness. The Appellant asserted that the Plaintiff himself had appeared before the Sub-Registrar for execution of the Sale Deed on 08.03.2006, and only after understanding the entire contents of the document, had executed the Sale Deed in favour of the Appellant. It was also submitted that the original Plaintiff had acknowledged receipt of the entire sale consideration, before the Sub-Registrar.

26. Reliance was also placed on the fact that the concerned Sub-Registrar, after satisfying himself with regard to the payment of the consideration amount and the stamp duty paid, had registered the Sale Deed. It was pointed out that the concerned Sub-Registrar had not recorded any deficiency or adverse inference regarding the condition or capacity of the Plaintiff to execute the Sale Deed.



27. The Appellant further relied upon the fact that the deceased Plaintiff was about 84–85 years old when he executed the registered Sale Deed, whereas he was about 92–93 years old when he executed the Will dated 15.10.2013. It was also contended that no complaint had been lodged by the Plaintiff against the Defendant, prior to September 2013.

28. The testimony of PW-1, Smt. Sunita, was also challenged on the ground that she was not present with the Plaintiff on 08.03.2006, at the time of execution of the Sale Deed and, therefore, her testimony was based on hearsay and she was not a competent witness to prove the statement of the deceased Plaintiff.

29. The medical documents of the Plaintiff filed by PW-1, pertained to the year 2014 and could not be relied upon as evidence of the Plaintiff's illness on 08.03.2006. It was further contended that, at the time of execution of the Sale Deed, there was no requirement for the purchaser to obtain a separate Receipt, evidencing payment of the sale consideration to the seller.

30. It was further asserted that the *Suit was barred by limitation*, as the Sale Deed was executed on 08.03.2006, while the Suit was filed on 18.10.2013. *It was also asserted that no cause of action had arisen in favour of the legal heirs of the original Plaintiff*, who were impleaded after his demise. The impugned Judgment was therefore, liable to be set aside.

31. The **Respondents, in their response to the Appeal**, asserted that the Plaintiffs had duly discharged the initial burden of proof, on the basis of which the Sale Deed had been rightly cancelled, by the Learned Civil Judge. The detailed reasons for directing cancellation of the Sale Deed had been given by the Learned Civil Judge in the impugned Judgment. It was further



asserted that the grounds of Appeal, were false and misconceived and that *no substantial question of law was involved in the present Appeal.*

32. The Learned First Appellate Court had only added to the reasoning of the Learned Civil Judge, while upholding its Judgment and Decree. It was submitted that there was no merit in the Appeal and that it was liable to be dismissed.

33. The Appellant and the Respondents, in their respective submissions, reiterated the grounds taken by them in the Appeal and the response thereto.

Submissions heard and record perused.

34. The **Substantial Question of Law was framed on 15 April 24, as under:**

“Whether the learned ADJ was not in error in holding that, as there was a fiduciary relationship between Rani and her father Ram Sarup, burden was on Rani to initially establish that the Sale deed executed by Ram Sarup in her favour, which was duly registered, was not executed by fraud or undue influence thereby requiring in the first instance to prove the negative?”

35. The Plaintiff, who died during the pendency of the Suit, is now represented by his legal heirs (the four sisters), had claimed that their Sister, Defendant Rani had got the Sale Deed dated 08.03.2006 executed from the father, fraudulently by representing it to be a Will being executed, as desired by the Plaintiff.

36. PW-1, Smt. Sunita, daughter of the deceased Plaintiff, in her testimony, had corroborated that the Plaintiff was the owner of the suit property and had raised the construction thereon, from his own funds and



that the property was assessed to Property Tax in the name of the deceased Plaintiff. These facts of the ownership of the deceased Plaintiff have not been challenged by the Defendant, who also claims title to the property under the Sale Deed executed by her father.

37. It is further **admitted** that the Defendant, after her marriage, stayed with her husband only for a month and thereafter, she along with her husband shifted to the house of the Plaintiff, where she started residing on the third floor of the suit property. Pertinently, it was a plot on which the construction had been carried out subsequently, by her father.

38. It was the specific case of the Plaintiff that he intended to give an equal share to all his daughters, but when he expressed his intention, the Defendant took him to the office of the Sub-Registrar on the pretext of getting the Will registered, where she instead, got the Sale Deed executed and registered in her favour. Admittedly, the Defendant had been residing with her father soon after her marriage and therefore, was in a position to exercise influence over him.

39. It is further not in dispute, that the Plaintiff, Ram Swaroop was illiterate, had weak eyesight and was suffering from various old-age ailments. Moreover, DW-1 had admitted in her cross-examination that her father had no intention to sell the property, which further corroborates the case of the Plaintiff that the Sale Deed had not been executed with his free consent.

40. The Civil Judge noted that the Plaintiff was about 83 years old in 2006, when the Sale Deed was executed. Looking at his physical condition,



the likelihood of the Plaintiff having been made to believe that the document shown to him was a Will instead of a Sale Deed, could not be negated.

41. The fraud was further evident from the fact that, despite the Plaintiff's request for a copy of the document, the Defendant refused to provide the same, pursuant to which the Plaintiff obtained a certified copy.

42. Furthermore, it was essential to prove that the deceased Plaintiff understood the contents of the Document executed by him. It had emerged in the testimony of PW-1 that the deceased Plaintiff, being an illiterate man, could not read and understand the contents of the Sale Deed, which is evident from the bare perusal of the Sale Deed, Ex. PW-1/3, which was written in English, even though the signatures of the Plaintiff were appended in Hindi.

43. Furthermore, the Defendant had produced a document, Ex. DW-1/9, which was the Attendance Register maintained by the deceased Plaintiff, for his employees. The entries therein, were maintained in Hindi and that the writing was itself not fluent in Hindi. This document, Ex. DW-1/9, was relied upon by the Learned Civil Judge, to hold that the deceased Plaintiff was not conversant with English.

44. Having been established on the record that the deceased Plaintiff was not conversant with English, the onus was on the Defendant to establish that he was conversant with English or that he had understood the contents of the Sale Deed and had executed the same with *consensus ad idem*.

45. The onus was upon the Defendant to prove that the deceased Plaintiff had understood the contents of the Sale Deed, which she has not been able to dispel. *Section 111 of the Indian Evidence Act, 1872, provides that where*



there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction lies on the person who is in a position of active confidence. Applying the aforesaid provision, it was evident that the Defendant, in fact, stood in a position of active confidence and was in a position to exercise influence over the Plaintiff.

46. The significant fact, which was noted by the Learned Civil Judge, was *that in the Sale Deed, it was stated that the sale consideration was ₹1 lakh, while as per the Plaintiff, in the year 2006, the property was valued at more than ₹60 lakhs.* The sale consideration being merely ₹1 lakh in the light of the prevailing property values also created a doubt about the sale transaction.

47. The Defendant had claimed that she had made the payment of ₹1 lakh in cash, but she was unable to produce any cogent evidence to prove the payment of ₹1 lakh. The Defendant, as DW-1, had stated that she was a housewife, a fact corroborated by a Bail Order dated 17.11.2011, Ex. PW-2/1, wherein the Learned ACMM had noted that the Defendant was a housewife, while her husband was employed in a private shop and was getting a meagre amount. The Defendant, in her cross-examination, also stated that she earned about ₹10,000 to ₹15,000 per month, even in the year 2006, when the Sale Deed was executed.

48. Moreover, DW-1 had categorically stated that she used to deposit her income in the bank account while she kept some for her expenses, but the perusal of the passbooks of her bank accounts, Ex. DW-1/P-1 to Ex. DW-



1/P-3, reflected that in 2006, the amount reflected therein was nowhere more than ₹10,000/-.

49. The onus was on the Defendant to prove how and from where she had generated the amount of ₹1 lakh and that the same was paid in cash to the Plaintiff, which she failed to discharge.

50. *Therefore, the sale consideration of ₹1 lakh raised a doubt regarding the genuineness of the transaction and supported the circumstances pleaded by the Plaintiff, regarding fraud and undue influence.*

51. It is also significant that the Plaintiff had executed a Will dated 15.10.2013, wherein he had disinherited the Defendant from all his movable and immovable properties. If the Sale Deed had been validly executed, there would have *been no occasion for the deceased Plaintiff to have subsequently disinherited his daughter from his property, in the Will dated 15.10.2013.*

52. Furthermore, the deceased Plaintiff had lodged a Complaint with the SHO, PS Tilak Nagar, on 18.09.2013 and another Complaint through the DCP on 01.10.2013, complaining of the fraud played upon him. Also, in the Legal Notice Ex. PW-1/6 dated 20.09.2013, the Plaintiff had asserted that fraud had been played upon him.

53. The only question that requires consideration is whether the onus was rightly placed upon the Defendant/Appellant to establish that she had not exercised undue influence. However, once both parties had led evidence, the case had to be decided on the basis of the entire evidence on record to ascertain whether the Sale Deed was liable to be set aside on the ground of fraud and undue influence. The question of onus thereafter, loses significance.



54. The **Learned Civil Judge thus, rightly concluded** that the Defendant had failed to discharge the onus placed upon her to establish that the Sale Deed had been executed by the deceased Plaintiff, with an understanding that it was a Sale Deed and not a Will. *Therefore, the Sale Deed dated 08.03.2006 was rightly, declared cancelled and the Defendant was directed to hand over the peaceful and vacant possession of the Suit Property to the Plaintiffs.*

55. Pertinently, *the Learned First Appellate Court*, in its detailed judgment in First Appeal, had re-appreciated the evidence and concurred with the Learned Civil Judge and upheld the Judgment and Decree dated 09.04.2018.

Conclusion:

56. From the aforesaid discussion, it has emerged that the finding regarding fraud and undue influence by the Ld. Civil Judge, **is a finding of fact**, which has been concurrently upheld by the Appellate Court and does not merit any interference.

57. **The Second Appeal is accordingly, dismissed.**

58. The pending Application(s) are disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

OCTOBER 01, 2026

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