



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 01.04.2025

1. RSA-2923-2022 (O&M)

Santosh Kumari

...Appellant(s)

Vs.

Immo @ Inshu and another

...Respondent(s)

AND

2. RSA-203-2023 (O&M)

Santosh Kumari

...Appellant(s)

Vs.

Immo @ Inshu

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. P.S.Jammu, Advocate for the appellant(s).

NIDHI GUPTA, J.

RSA-2923-2022 (O&M)

The plaintiff is in second appeal against the concurrent judgment and decree dated 12.09.2018 passed by the learned trial Court; and judgment and decree dated 29.11.2019 passed by the learned Additional District Judge, Sirsa, whereby the suit of the appellant/plaintiff for declaration that Release Deed dated 30.05.2001; compromise dated 30.11.2011; and the judgment and decree dated 30.11.2011 are null and void, based on fraud, concealment of facts etc., are liable to be set aside, has been dismissed by both the Courts below.

**RSA-203-2023 (O&M):**

The plaintiff is in second appeal against the judgment and decree dated 14.11.2011 rendered by the learned District Judge, Sirsa, whereby the appeal filed by the respondent/defendant against the judgment and decree dated 01.10.2010 passed by the learned trial Court decreeing the suit of the appellant/plaintiff, has been allowed.

2. Both the above said appeals are being disposed of by this common order as the facts, issues and parties in both the appeals are similar. For the sake of facility, facts are being drawn from RSA-2923-2022 titled as "*Santosh Kumari vs. Immo @ Inshu and another.*"

3. The only argument made by Id. counsel for the appellant to challenge the concurrent judgments and decrees of the Courts below is that after the compromise was entered into between the parties, the plaintiff had discovered that she had got less than the share due to her. It is submitted that accordingly, the impugned judgments and decrees suffer from material error and deserve to be set aside.

4. No other argument is raised on behalf of the appellant/plaintiff.

5. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

6. Perusal of the record of the case shows that the plaintiff is widow of testator Adu Ram now deceased. Luxmi Narain is the



predeceased son of Adu Ram; defendant No. 1 is daughter of Luxmi Narain; and defendant No. 2 is the wife of Luxmi Narain, predeceased son of Adu Ram. Luxmi Narain (now deceased) was the only son of Adu Ram from his first wife Tulsi Bai. Adu Ram had 3 daughters from his second wife Santosh Kumari/plaintiff. During his lifetime, Adu Ram had given full and complete due share out of his properties to Luxmi Narain. However, when Luxmi Narain had died during the lifetime of Adu Ram, Adu Ram executed a registered Will dated 24.11.1987; as per which he bequeathed all his movable and immovable properties to the plaintiff to the extent of $2/3^{\text{rd}}$ share; and to Tulsi Bai to the extent of $1/3^{\text{rd}}$ share. Adu Ram further imposed a condition that after the death of Tulsi Bai, $1/3^{\text{rd}}$ share of property given to her will vest in the plaintiff, who will then become exclusive owner of all the properties. It was the pleaded case of the plaintiff that Adu Ram had also expressed his clear intention that upon his death, the legal heirs of Luxmi Narain will have no claim or interest in the properties left by Adu Ram. The plaintiff has further pleaded that on 28.05.2001, Tulsi Bai with a malafide intention, had executed a registered Release Deed dated 28.05.2001 in favour of defendant in respect of land measuring 33K 6M. The plaintiff had already challenged the said Release Deed through Civil Suit dated 11.09.2004. On 30.05.2001, Tulsi Bai had executed another registered Release Deed in favour of the defendant in respect of $1/3^{\text{rd}}$ share of residential house bearing No. 81-A Block, New Anaj Mandi, Sirsa.



7. The plaintiff filed a Civil Suit No. 316-C of 2011 before the Civil Judge (Senior Division), Sirsa. During the pendency of the said Civil Suit, written compromise dated 30.11.2011 was effected between the parties; as per which Tulsi Bai had transferred land measuring 33K 6M in favour of defendant No.1. It was the case of the plaintiff that at the time of the said compromise, certain facts were concealed from the plaintiff; and land of the plaintiff came to be deducted from 66K 12M to 57K 12M; and the land of Tulsi Bai comes to 28K 6M instead of 33K 6M. Accordingly, the plaintiff filed present suit for declaration that Release Deed dated 30.05.2001; compromise dated 30.11.2011; and the judgment and decree dated 30.11.2011 are null and void, based on fraud, concealment of facts etc., and are liable to be set aside.

8. Learned trial Court on appraisal of the pleadings; relevant oral and documentary evidence, held vide judgment dated 12.09.2018 that the plaintiff is unable to prove her case. Admittedly, the matter was compromised between the parties before the Lok Adalat as per order dated 30.11.2011 (Ex.C1), passed by the Presiding Officer, Lok Adalat. The suit had been decreed as per the compromise arrived at between the parties. The said order dated 30.11.2011 was sought to be challenged by the plaintiff before the Civil Court; which was not permitted as per Section 21 of the Legal Services Authority Act, 1987, as per which compromise decree passed in Lok Adalat cannot be challenged by way of a Civil Suit. Accordingly, the learned trial Court had held that Civil Court is not the proper forum to challenge the compromise decree; and the appropriate



remedy for the aggrieved party is to file a writ petition before the High Court.

9. The above said findings were upheld by the learned lower appellate Court vide judgment and decree dated 29.11.2019 by relying upon judgment of Hon'ble Supreme Court in ***Bhargavi Construction and another vs. Kothakapu Muthaya Reddy and others, 2017(4), RCR (Civil) 359*** and of Chhatishgarh High Court passed in ***Koushal Kumar Govind Aditya vs. Kishanlal Govind Aditya and others, 2018 (3) CCC 96***; wherein it is held that as per Section 21 of the Legal Services Authority Act, 1987, institution of civil suit to challenge compromise decree passed in Lok Adalat is prohibited.

10. Learned lower appellate Court further observed as under:-

“17. It is further that even otherwise the provision as envisaged under Order 23 Rule 3 (A) of CPC provides that a compromise decree cannot be set aside by virtue of a separate suit on the ground that compromise was obtained by fraud and mis-representation and plaintiff can only move an application under Section 151 of CPC. Needless to mention here that application preferred by the appellant/ plaintiff under Section 151/152 of CPC has already been decided by the Court by the then Civil Judge, Sirsa vide order dated 23.03.2015 and even revision preferred against that order, has also been disposed off by the Hon'ble P&H High Court without interfering in the order passed by the then learned Civil Judge, Sirsa just by giving direction that plaintiff can avail alternate remedy available to her. It is pertinent to mention here that permission to avail alternate remedy cannot be construed as liberty with the plaintiff to institute a



civil suit for seeking relief as has been prayed for and she could have approach the Hon'ble P&H High Court for seeking relief, if any, permissible i.e. by way of invoking writ jurisdiction of the Hon'ble High Court, in accordance with law. It is worthwhile to mention here that rest of the matter which has been agitated in the civil suit, has already been settled between the parties to the suit and those cannot be re-agitated by fresh litigation as barred by principle of res-judicata and limitation.”

11. Learned counsel for the appellant is unable to controvert or dispute the above said facts, findings and/or the legal position.
12. Both the appeals, accordingly, stand **dismissed** on merits. RSA-203-2023 is dismissed on grounds of delay as well as on merits.
13. Pending application(s) if any also stand(s) disposed of.

01.04.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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| Whether speaking/reasoned: | Yes/No |
| Whether reportable: | Yes/No |