

2025:PHHC:095200



169 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**RSA-180-2022 (O&M)**  
**Reserved on: 23.07.2025**  
**Pronounced on:-29.07.2025**

Smt. Phulli Devi .....Appellant..

vs.

Smt.Munni Devi and others ....Respondents.

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. R.S.Mamli, Advocate,  
for the appellant.

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**HARKESH MANUJA J. (Oral)**

1. By way of present appeal, challenge has been laid to the judgments and decrees dated 17.12.2015 and 16.03.2021 passed by the Courts below, whereby, the suit for declaration and consequential relief of permanent injunction filed on behalf of appellant-plaintiffs came to be dismissed by both the Courts.

2. Briefly stating, a suit for declaration with consequential relief of permanent injunction was filed at the instance of legal heirs of Rugha Ram i.e. appellant/plaintiffs against the defendants with defendants No.1 to 3 being the legal heirs of Sahab Ram. It was pleaded that a civil suit No.492 of 1991 was filed by Sahab Singh against Rugha Ram based on an oral mutual exchange of properties. It was further alleged that Sahab Singh concealed material facts from Rugha Ram, who was mentally weak and

succeeded in getting the judgment and decree dated 01.05.1991 from the Court of the then learned Sub-Judge Ist Class, Fatehabad, on the basis of which land measuring 19 kanals 2 marlas came to the share of Sahab Singh, whereas, a house consisting of two rooms, verandah, kitchen, boundary wall, allegedly situated within *lal lakir* of village Badopal, Tehsil and District Fatehabad came to the share of Rugha Ram and the possession of the properties was also exchanged. As per the plaint, during his lifetime, Rugha Ram allowed Mani Ram to occupy the exchanged house as a licensee; when the plaintiffs asked Mani Ram to vacate the said house, he refused to vacate the same, claiming that it was owned by him only. Later, upon inquiry, the plaintiffs came to know that the predecessor-in-interest of defendants No.1 to 3 had concealed the true facts and mentioned the property of khasra numbers as the property situated within *lal lakir* and as such, judgment and decree dated 01.05.1991 passed in Civil Suit No.492 on the basis of mutual exchange, was wrong and illegal, based on fraud. Hence, the present suit.

3. Upon notice, respondents No.1 to 3/defendants No.1 to 3 appeared and filed their joint written statement, while pleading that an oral exchange had taken place between Rugha Ram and Sahab Ram, as per which they exchanged the land with each other, and Rugha Ram was declared the owner in possession of house marked as ABCD situated within the *lal lakir* of village Badopal, Tehsil and District Fatehabad, which was previously owned and possessed by Sahab Ram. On the basis of the said exchange, Rugha Ram filed civil suit No.492, wherein the predecessor-in-interest of the answering defendants, namely Sahab Ram, appeared and filed the written statement on 10.04.1991 and the said suit was decreed vide judgment and decree dated 01.05.1991. It was further pleaded that the

plaintiffs made a false plea regarding the weak mental condition of Rugha Ram, whereas the answering defendants had no knowledge regarding the possession of Mani Ram upon the house in question and therefore, the present suit filed by the plaintiffs was liable to be dismissed.

3.1 Defendants No.4 and 5 also filed their separate written statement reiterating the same facts as pleaded by defendants No.1 to 3 in their written statement and prayed for dismissal of the suit.

3.2 Based on the pleading of the parties, the following issues were framed by the trial Court on 01.04.2014:-

- “1. *Whether the plaintiffs are entitled to a decree for declaration to the effect that civil Court judgment and decree dated 01.05.1991 passed in civil suit no.492 of 1991 titled as Rugha Ram versus Sahab Ram is illegal, null and void? OPP*
2. *Whether the plaintiffs are entitled to a decree for permanent injunctions restraining the defendants from alienating the suit property to any other person? OPP*
3. *Whether the plaintiffs are entitled to possession of the suit property?OPD*
4. *Whether the suit of the plaintiffs is not maintainable? OPD*
5. *Whether the plaintiffs have no locus standi and cause of action to file the present suit? OPD*
6. *Relief.”*

4. The Trial Court vide judgment and decree dated 17.12.2015 dismissed the suit. Aggrieved thereof, appellant-plaintiff No.1 filed first appeal, which also came to be dismissed by the Court of Additional District Judge, Fatehabad vide its judgment and decree dated 16.03.2021. Hence, the present appeal.

5. While assailing the aforementioned judgments and decrees passed by the Courts below, learned counsel for the appellant submits that a clear cut fraud was played upon deceased-Rugha Ram (husband and father of plaintiff No.1 and plaintiffs No.2 to 5, respectively), who was of weak mental health, and as a result thereof, on the basis of the alleged oral exchange, the predecessor in interest of defendants No.1 to 3 succeeded in getting the judgment and decree dated 01.05.1991 passed in his favour. He further submits that although Rugha Ram was deprived of his agricultural land, whereas he was not even handed over the possession of the residential house situated within *lal lakir* of village Badopal, Tehsil and District Fatehabad and thus, the earlier decree dated 01.05.1991 was liable to be set aside being illegal, null and void. No other argument has been addressed.

6. I have heard learned counsel for the appellant and gone through the paper book, I am unable to find substance in the submissions made on behalf of the appellant.

7. Though, the contention raised on behalf of the appellant is that the predecessor-in-interest of defendants No.1 to 3, namely, Sahab Ram procured the judgment and decree dated 01.05.1991 in his favour by taking benefit of the weak mental health of Rugha Ram (husband and father of plaintiff No.1 and 2 to 5, respectively), however, there is no evidence available on record at all regarding this material aspect and as such the fraud if any upon Raghu Ram was never proved on record. Moreover, predecessor-in-interest of appellant, namely Rugha Ram, during his life time, never ever assailed the validity of either the oral exchange or even the judgment and decree dated 01.05.1991.

8. As a matter of fact, in the plaint, it was specifically pleaded by

the appellant-plaintiffs themselves that upon oral exchange and after the passing of the judgment and decree dated 01.05.1991, the house within the *abadi deh* was handed over to one Mani Ram as a licensee by Raghu Ram; whereas, the said Mani Ram was neither impleaded as defendant in the suit nor even any effort was made by the plaintiffs to summon him as witness. As such, the plaintiffs who were to stand on their own legs to prove their case, failed to establish the same.

9. In such circumstances, finding no illegality or perversity in the concurrent findings recorded by the Courts below which are based upon proper appreciation of pleadings and the evidence available on record and there being no misreading thereof been pointed out specifically; the impugned judgments and decrees call for no interference. Resultantly, the present appeal being devoid of merits is dismissed.

10. Pending application, if any, also stands disposed of.

29.07.2025

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**(HARKESH MANUJA)**  
**JUDGE**

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