



122

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

RSA-2770-2022 (O&M)

Date of Decision : 11.09.2025

Shyam Lata (deceased) through LRs & Ors ... Appellant(s)

Versus

Rajbir Singh Chauhan & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sudhir Aggarwal, Advocate for the appellants.

Mr. Gopal Sharma, Advocate for caveator-respondent No.1.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the defendant No.1-appellants (defendant-appellants) challenging the concurrent findings returned by the Trial Court vide judgment and decree dated 25.08.2012 and the First Appellate Court vide judgment and decree dated 29.11.2021.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent Nos.1 and 2 herein filed a suit for declaration that the judgment and decree dated 01.08.1995 and subsequent mutation No.3564 and mutation of inheritance No.4034 in favour of legal heirs of defendant No.2 – Virender Singh – were illegal, null and void and not binding upon the rights of the plaintiff-respondent Nos.1 and 2 and the same were liable to be set aside. Further prayer was for permanent injunction restraining the defendants from forcibly taking possession of the suit property and from alienating the suit property. It was the case set up that the father of the plaintiffs and the

defendants, namely, Hari Kishan was owner in possession of the land as described in the plaint. The said property was ancestral in the hands of Hari Kishan – father of the parties. The plaintiffs and the defendants constituted a joint Hindu family property. Hari Kishan, father of the parties, expired in the month of July 1997 and thereafter the plaintiffs and the defendants came into possession of the suit property in equal shares. Virender Singh, brother of the plaintiffs, expired on 07.07.2011. At the time of death of Virender Singh, his legal heirs told the plaintiffs about the decree dated 01.08.1995 and regarding the share of each of the parties. On learning about the judgment and decree dated 01.08.1995, the plaintiffs made some inquiries from the Halqa Patwari which revealed that mutation No.3564 had been sanctioned in this regard on 23.02.1998 in favour of the plaintiffs and the defendants. It was averred that the said judgment and decree dated 01.08.1995 and the subsequent mutations were illegal, null and void and not binding upon the rights of the plaintiffs as well as the defendants. It was the stand taken by the plaintiffs that they never signed the plaint of Civil Suit No.292 dated 24.05.1995 and the defendants had forged their signatures knowingly and intentionally. It was further the stand that no family settlement ever took place between the family members as stated in the judgment and decree dated 01.08.1995. Rather, the property had been divided equally amongst all the sons. It was further the case that plaintiff No.1 was an Army personnel and he resided away from the village due to his service on the border areas. Hence, the present suit.

3. On notice the legal heirs of Virender Singh (defendant No.2) appeared and filed a written statement taking preliminary objections regarding maintainability, cause of action, limitation, *locus-standi* etc. It was stated that the plaintiffs and the defendants were now owners in possession of the

agricultural land as per the judgment and decree dated 01.08.1995. It was further the stand that the said judgment and decree was within the knowledge of all and the same was valid and none of the family members had any objection to the same.

4. Written statement filed by the legal heirs of Virender Singh (defendant No.2) was adopted by the defendant-appellants and defendant No.2(ii) to 2(v). The defendant Nos.3 and 4 filed an admitted written statement admitting the claim of the plaintiffs. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the impugned judgment and decree dated 1.8.1995 passed in Civil Suit no.292 of 29.05.1995 in case titled as Ranbir Singh and others Vs. Hari Kishan, are illegal, null and void and not binding on the rights of the plaintiffs ? OPP
2. If issue no.1 is proved in affirmative whether the plaintiffs are also entitled to a decree for permanent injunction thereby restraining the defendants from forcibly dispossessing them from the suit property and also from alienating or otherwise encumbering the same in any manner ? OPP
3. Whether the suit is within the prescribed period of limitation ? OPD
4. Whether the plaintiffs have no cause of action or locus-standi to maintain this suit in its present form ? OPD
5. Relief.

5. Vide judgment and decree dated 25.08.2017 the suit of the plaintiff-respondent Nos.1 and 2 was decreed by the Trial Court. Aggrieved by the same, an appeal was preferred by the defendant-appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 29.11.2021. Hence, the present regular second appeal.

6. Learned counsel for the defendant-appellants would contend that the suit on the basis of which decree dated 01.08.1995 was passed was filed by all the sons of Hari Kishan and Hari Kishan filed an admitted written statement. It is further the contention that there was no evidence led that the suit property was ancestral in nature and it was upto Hari Kishan how to divide the property in the manner he deemed fit being a self-acquired property and once the same had been done, the plaintiff-respondent Nos.1 and 2 could not challenge it.

7. *Per contra* learned counsel for the caveator/plaintiff-respondent No.1 would contend that it has come on the record by way of cogent evidence that Rajbir Singh one of the plaintiffs in the suit in which the decree dated 01.08.1995 was passed had not signed the plaint. It is further the contention that two judgments and decrees were obtained by fraud - one dated 01.08.1995 and another dated 05.09.1991. Learned counsel has pointed out that the judgment and decree dated 05.09.1991 was also challenged by the plaintiff-respondent Nos.1 and 2 and the same was set aside by the Trial Court and affirmed by the First Appellate Court. Aggrieved by the same, RSA No.1726 of 2022 was filed which was also dismissed vide order dated 24.08.2022. Learned counsel would further contend that both the decrees were obtained by fraud and hence no fault can be found with the judgments and decrees passed by both the Courts.

8. I have heard the learned counsel for the parties.

9. In the present case both the Courts concurrently found that the signatures on the plaint on the basis of which judgment and decree dated 01.08.1995 was passed did not bear the signature of Rajbir Singh. Rather, the said signatures were forged. The plaintiff-respondent Nos.1 and 2 had produced the handwriting and fingerprint expert who had stated that the said signatures were forged. No evidence was led to the contrary by the defendant-appellants herein. Further still, no alleged family settlement was brought on the record on the basis of which the judgment and decree dated 01.08.1995 was passed. Once Rajbir Singh had not signed the plaint and the decree passed was to his detriment inasmuch as an unequal share had been given to him, the said judgment and decree has rightly been set aside by the Courts.

10. In view of the above, no fault can be found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

11.09.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO