



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.2045 of 2024 (O&M)
Date of Order:24.03.2025

Amar Kaur and another

..Petitioners

Versus

Krishan Singh and others

..Respondents

SAO No.85 of 2017(O&M)

Amar Kaur and another

..Appellants

Versus

Daya Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Arihant Jain, Advocate
Mr. Kanish Jindal, Advocate
for the petitioners (In CR-2045-2024)
for the appellants(in SAO-85-2017)**

**Mr. Aakash Singla, Advocate
Ms. Vaishali Singla, Advocate
for respondent nos.1 to 4 (in CR-2045-2024)
for respondent nos.2 to 5 (in SAO-85-2017)**

ANIL KSHETARPAL, JUDGE (Oral)

1. With the consent of the learned counsel representing the parties, two connected cases, Civil Revision No.2045 of 2024 and SAO No.85 of 2017, shall stand disposed of with this order.

2. The family tree of the parties is extracted as under:-

Jeoni @ Jaswant Kaur
wd/o Sant Singh

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was decreed on 23.02.2013. In between the proceedings for sanction of the mutation was pending before the revenue authorities. Three daughters filed writ petition in the High Court which was dismissed in limine while granting liberty to the daughters to file civil suit. The daughters filed a separate civil suit on 17.11.2011, claiming that the Will dated 19.08.1996, is forged.

3. Subsequently, all the three daughters , namely, Surjit Kaur, Amar Kaur and Bhagwant Kaur filed an application under Order 9 Rule 13 CPC for setting aside ex-parte decree on 29.05.2013, which has been dismissed by the trial court on 19.03.2018, which in turn has been affirmed by the Appellate Court on 19.01.2024.

4. Civil Revision No.2045 of 2024, has been filed against the concurrent orders passed by the courts below.

5. In the subsequent suit filed on 17.11.2011, written statement was filed, however, inadvertently, the previous litigation was not disclosed. The application for amendment was filed which was dismissed. Subsequently, the issues were framed and the plaintiffs, namely, the three daughters, concluded their evidence. At that stage, an application under Section 10 CPC was filed which has been allowed by the trial court on 25.05.2015. The daughters filed first appeal which has been dismissed on 08.05.2017.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

7. The learned counsel representing the appellants (daughters) of Smt. Jeoni @ Jaswant Kaur has submitted that the subsequent suit could not be dismissed under Section 11 CPC because the previous application filed



by the defendants (four grand sons) for permission to amend was dismissed. He submits that the plea of resjudicata is required to be pleaded and proved. He further submits that an application under Order 9 Rule 13 CPC was filed within three months of the ex-parte decree which should have been allowed.

8. Per contra, the learned counsel representing the respondents has submitted that initially Surjit Kaur and Amar Kaur filed an application under Order 9 Rule 7 CPC which was allowed subject to payment of costs of Rs.1000/-, however they never paid the amount. Hence, their application under Order 9 Rule 13 CPC was not maintainable. Moreover, the application was filed beyond the prescribed period of limitation because they had knowledge of the proceedings.

9. This court has considered the submissions and analyzed the arguments of the learned counsel representing the parties.

10. It is evident that the appellants/petitioners are not serious in contesting the litigation. Previously, the petitioners/appellants filed application under Order 9 Rule 7 CPC which was allowed. However, they neither deposited the cost nor contested the suit. After getting three adjournments, the petitioners themselves absented from the proceedings. Subsequently, Surjeet Kaur and Amar Kaur had joined hands with Bhagwant Kaur in filing an application under Order 9 Rule 13 CPC. It is evident that they were never serious in contesting the litigation. The property left behind by Smt. Jeoni @ Jaswant Kaur is subject matter of both the suits. Once, the previous suit has been decreed and the Will has been declared to have been proved, the petitioners/appellants have no right. The liberty granted by this



court while dismissing the writ petition in limine would not overrule the judgment and decree which has already been passed against them.

11. Moreover, all the courts have already examined the facts of the case and found that the petitioners/appellants have failed to make out their case.

12. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

13. Dismissed.

14. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

March 24, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No