



RSA-941-2023 (O&M)

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

(106)

RSA-941-2023 (O&M)

Date of decision:- 24.01.2025

Harbans Singh and another

...Appellants

Versus

Gurjant Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ramneek Singh Baweja, Advocate (through VC)
for the appellants.

...

SUVIR SEHGAL, J. (Oral)

1. Appellants-plaintiffs are in second appeal before this Court challenging the concurrent findings recorded by two Courts.
2. Pleaded case of the appellants is that Surjit Kaur was the owner in possession to the extent of her share in the suit property and upon her death, plaintiffs and proforma defendants succeeded to her estate in equal share. Defendants No.1 and 2, along with Jasbir Singh, predecessor, in interest of defendants No.3 to 5, played a fraud and by misrepresentation obtained a judgment and decree dated 31.05.1985, Ex. P-5, on the basis of an alleged family settlement. It has been averred that plaintiff No.2, was not competent to enter into such a settlement, as she was a minor at the time of the filing of the suit. Specific plea has been raised that the plaintiffs never engaged a counsel, nor did they appear before the Trial Court to make any statement and the decree



has been obtained by impersonation. A suit for declaration was filed to the effect that the judgment and decree dated 31.05.1985 passed by the Subordinate Judge Second Class, Patiala, in Civil Suit titled Gurjant Singh and others Versus Tej Kaur and others, is illegal and void and for declaring the sale deed dated 20.12.2012, allegedly executed by defendant No.1, in favour of his son, as illegal. A declaration was sought that the plaintiffs along with proforma respondents are owners in possession to the extent of 1/11th share of the suit land. Upon being served, suit was contested by the defendants by filing a written statement, wherein various preliminary objections were taken. A stand was taken that the parties had entered into compromise and statement was made by the parties, who appeared before the Court, admitting the settlement. An objection was taken that the suit is barred by time as it has been filed 28 years after the passing of the judgment and decree. The sale deed was defended as being valid. Trial Court framed issues on the basis of the pleadings of the parties. After contest, suit was dismissed by the Trial Court by judgment and decree dated 01.03.2017. Plaintiffs remained unsuccessful and first appeal was dismissed by the learned Additional District Judge, Patiala, on 19.12.2022, resulting in the institution of the instant appeal at their hands.

3. Counsel for the appellants has contended that the judgment and decree, Ex. P-5, was obtained by playing fraud. It is his argument that appellant No.2, was minor, at the time of the alleged compromise and the decree is not binding on her. Claiming that the appellants are owners of the land to the extent of their share, he has sought for setting aside of the judgments and decrees and prayed for acceptance of the suit.



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4. I have heard counsel for the appellants and examined his submissions, besides analyzing the requisitioned record.

5. A perusal of the judgment dated 31.05.1985, Exhibit P-5, shows that appellant No.1, was impleaded as defendant No.5, and appellant No.2 although described as Pal Kaur, was impleaded as defendant No.8, in the civil suit. Both of them filed a written statement admitting the claim in the suit as also confirming the factum of settlement. They signed a vakalatnama and engaged Shri T.S.Bamra, Advocate, to appear on their behalf. Both of them had appeared in Trial Court and their statements were recorded, which were duly signed by them. Sanctity is attached to the Court proceedings and they cannot be disbelieved. The appellants have failed to examine Shri Bamra, to prove that he was never engaged, or that they had never appeared before the Trial Court and recorded their statements. The argument regarding Jaspal Kaur being minor at the time of compromise, is an argument in vain. Appellant No.2 is stated to have been born on 01.04.1967, and her statement was recorded before the Court on 23.05.1985, after she had attained majority. There is no material before this Court to come to the conclusion that the decree had been obtained by fraud.

6. Furthermore, Order 23 Rule 3A CPC bars a filing of a fresh suit to set aside a compromise decree. It has been held by the Supreme Court in *Navratan Lal Sharma Versus Radha Mohan Sharma and others, 2025 (1) RCR Civil 278*, that neither a fresh suit is maintainable, nor an appeal can be filed for setting aside a compromise decree, and the only remedy available to an aggrieved party is to approach the Court that recorded the compromise under

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Order 23 Rule 3 CPC. The civil suit filed by the appellants is clearly not maintainable. There is no illegality in the judgments and decrees passed by the Courts below, which are affirmed.

7. Appeal being devoid of merit, is dismissed with no order as to cost.
8. Pending application is also disposed of.

(SUVIR SEHGAL)
JUDGE

24.01.2025
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes