

RSA-427-1999 (O&M)

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

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**RSA-427-1999 (O&M)
Reserved on:- 27.10.2025
Date of Decision :04.11.2025**

Krishna Ram (since deceased) through LRs

....Appellants

VERSUS

Ajay Kumar

....Respondent

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Rajinder Goel, Advocate and
Mr. Purusharth Dhull, Advocate for the appellants.

Mr. Amit Jain, Senior Advocate assisted by
Ms. Aeshna Jain, Advocate for the respondent.

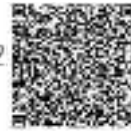
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MANDEEP PANNU, J.

1. The present Regular Second Appeal has been filed by the appellant–plaintiff Krishna Ram against the judgment and decree dated 27.01.1999 passed by the learned Additional District Judge, Jagadhri, whereby the judgment and decree dated 14.05.1997 passed by the learned Senior Sub Judge, Jagadhri in a suit for declaration, were reversed.

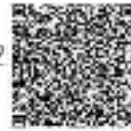
Brief Facts

2. The brief facts of the case are that the plaintiff Krishna Ram filed a suit for declaration to the effect that he is owner in possession of the land measuring 27 kanals 17 marlas and 1/6th share of land measuring 10 kanals 17 marlas, situated within the revenue estate of village Jagadhri, Tehsil Jagadhri, District Yamuna Nagar, with all rights appurtenant thereto in Shamlat Deh etc.,

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and further sought a declaration to the effect that the judgment and decree dated 29.04.1988 passed in favour of the defendant in Civil Suit No. 45 of 1988 titled "*Ajay Kumar vs. Krishna Ram*" by the Court of Shri M.L. Bansal, the then Sub Judge, Ist Class, Jagadhri, is illegal, null and void, ineffective and not binding upon the rights of the plaintiff. It was also prayed that mutation No. 844 attested by A.C. II Grade, Jagadhri, on 22.07.1988 in pursuance of the said decree and further entries regarding ownership and possession based on the said decree are also illegal, null and void, and that a decree for permanent injunction be passed restraining the defendant from interfering in the actual physical possession of the plaintiff over the land in dispute.

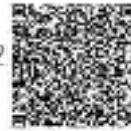
3. The suit was filed against Ajay Kumar, minor son of Shri Babu Ram, through his father and natural guardian, Shri Babu Ram. Briefly stated, the plaintiff alleged that he is the owner in possession of the suit land mentioned above and that the defendant, being a minor, and his father have no concern with the plaintiff or the land in dispute. It was further averred that in the year 1988, the father of the defendant, Babu Ram, requested the plaintiff to stand surety for him in order to secure a loan from the bank for the construction of a pucca house. The plaintiff, being an illiterate and old man, agreed to stand surety, and for that purpose, his thumb impressions were obtained on certain papers, which were said to be required for the loan process. However, by playing fraud and misrepresentation, Babu Ram and the defendant got a fraudulent decree from the Court regarding the suit land. The plaintiff never executed any transfer deed or relinquished his ownership rights in any manner. Therefore, the judgment and decree dated 29.04.1988 and the



consequential mutation No. 844 were the result of fraud and misrepresentation, obtained with mala fide intention and ulterior motives.

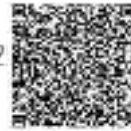
4. The defendant, on the other hand, denied the allegations and asserted that the plaintiff is related to him, being the brother of his grandfather. It was pleaded that there was no fraud or misrepresentation, and that the suit land was given to the defendant in a family settlement, in which the plaintiff voluntarily filed a suit admitting the claim of the present defendant. Based on such admission and consent, the decree was passed by the Court, which was perfectly legal, valid, and binding upon all parties, including the present plaintiff. The defendant further stated that mutation No. 844 was rightly sanctioned in his name in consequence of the decree. It was also pleaded that under the said family arrangement, the plaintiff retained with him cash and jewellery in lieu of the land given to the defendant. The defendant further contended that the decree dated 29.04.1988 was not compulsorily registrable, as it was passed on the basis of admission of the plaintiff in the previous suit. It was also pleaded that since the decree was passed with the voluntary consent of the plaintiff, no permission of the Court was required under the law on behalf of the minor defendant. The defendant further stated that the plaintiff has already been out of possession of the suit land since the passing of the decree in 1988, and therefore, the question of any interference in his possession does not arise. The defendant also raised additional objections that the present suit is barred by law of limitation, res judicata, that the plaintiff has no locus standi to file the present suit, and that the same is not maintainable in the present form.

5. Replication was filed, wherein the plaintiff reiterated his earlier stand, denying the averments made in the written statement.



6. On the pleadings of the parties, the following issues were framed vide order dated 14.05.1992:

1. Whether the plaintiff is owner in possession of the suit land as detailed in the headnote of the plaint with all the rights appurtenant thereto in shamlat deh etc.? OPP
2. Whether the judgment and decree dated 29.04.1988 passed in favour of the defendant in Civil Suit No. 45 of 1988 titled as Ajay Kumar vs. Krishna Ram with respect to the suit land is illegal, null, void, ineffective and not binding upon the rights of the plaintiff? OPP
3. Whether mutation No. 844 attested in favour of the defendant by A.C. II Grade, Jagadhri on 22.07.1988 pursuant to the impugned decree and further entries with respect to the ownership and possession on the basis of the said decree in the name of the defendant are also illegal, null and void, ineffective and not binding upon the rights of the plaintiff? OPP
4. Whether the defendant is illegally interfering in the actual physical possession of the plaintiff over the suit land by way of alienation? OPP
5. Whether the suit is barred by the principle of res judicata? OPD
6. Whether the suit is not maintainable? OPD
7. Whether the plaintiff has no locus standi to file the present suit?
OPD
8. Whether the suit is barred by limitation? OPD

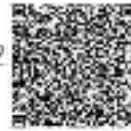


9. Whether the answering defendant is entitled to special costs under Section 35-A CPC, the suit of the plaintiff being false and frivolous? OPD

10. Relief.

Findings of the trial Court

7. The trial Court, after examining the oral and documentary evidence, came to the conclusion that the plaintiff Krishna Ram was the owner in possession of the suit land along with all rights appurtenant thereto. The Court held that the judgment and decree dated 29.04.1988 passed in Civil Suit No. 45 of 1988 titled Ajay Kumar vs. Krishna Ram was obtained by way of fraud and misrepresentation. It was found that the plaintiff, being an old and illiterate man, was induced by Babu Ram, father of the minor defendant, to affix his thumb impressions on certain documents under the pretext of standing surety for a bank loan. However, those papers were later misused to procure a consent decree in favour of the minor. The Court observed that the alleged family settlement forming the basis of that decree was a concocted story and that the suit property was the self-acquired property of the plaintiff. Since the defendant Ajay Kumar had no pre-existing right in the property, there could be no valid family settlement, as such arrangements presuppose existing rights in favour of all parties. The earlier decree, therefore, was held to be collusive, fictitious, and a product of fraud, making it null and void in the eyes of law. Consequently, the mutation sanctioned on the basis of that decree was also declared illegal, ineffective, and not binding on the rights of the plaintiff. It was further held that the plaintiff continued to remain in cultivating possession of the suit land, and the defendant, through his father, was illegally

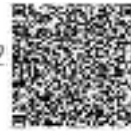


attempting to interfere in that possession by relying on the fraudulent decree. The Court accepted the plaintiff's evidence that the cause of action arose only when the defendant started asserting ownership and threatened to dispossess the plaintiff, and therefore, the suit was filed within limitation. The objections raised by the defendant regarding res judicata, locus standi, and maintainability were rejected on the ground that the earlier decree being void and fraudulent could not bar a fresh suit, and the plaintiff, being in possession, was fully competent to seek declaration and injunction.

8. Accordingly, the trial Court decreed the suit on 14.05.1997, declaring that the judgment and decree dated 29.04.1988 and mutation No. 844 attested on its basis were illegal, null, and void, and not binding upon the rights of the plaintiff. The defendant was permanently restrained from interfering in the peaceful possession of the plaintiff over the suit land or alienating it in any manner.

Findings of the Lower Appellate Court

9. The lower appellate Court, after reappreciating the evidence and the reasoning of the trial Court, reversed the findings primarily on the ground that the plaintiff Krishna Ram had voluntarily suffered the decree dated 29.04.1988 and failed to establish any element of fraud or misrepresentation. It was observed that the plaintiff himself had admitted in his testimony that he had appeared in Court and suffered the decree in favour of Ajay Kumar. His subsequent explanation that he was deceived into putting his thumb impressions under the pretext of standing surety for a loan was found inconsistent and unreliable. The appellate Court noted contradictions in the plaintiff's evidence and found that his conduct and admissions in the earlier suit clearly showed conscious participation, not deception.



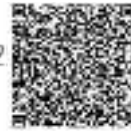
10. The Court held that there was no credible evidence to prove that Babu Ram, father of the minor defendant, had played any fraud. The statement of the plaintiff's own witnesses was found contradictory, and the testimony of the advocate who drafted the earlier compromise showed that Krishna Ram had admitted the contents of the written statement and compromise after understanding them. The Court observed that once the plaintiff had admitted the facts forming the basis of the earlier decree, he was estopped from later denying them. It was further held that the decree in question did not require registration as it merely affirmed the rights admitted by the parties and did not create new rights in immovable property for the first time.

11. The appellate Court also observed that the possession of the suit land was rightly reflected in the revenue record in the name of the defendant Ajay Kumar and that the plaintiff had failed to prove his continued possession. The plea of limitation raised by the appellant was also found to have merit, as the suit was filed nearly four years after the 1988 decree. Consequently, it was held that the findings of the trial Court on issues of fraud, ownership, and possession were unsustainable. The lower appellate Court therefore declared the decree dated 29.04.1988 to be valid and binding, set aside the judgment and decree of the trial Court, and dismissed the suit of Krishna Ram.

12. Feeling aggrieved, the appellant-Krishna Ram has preferred the present appeal, which upon notice is contested by the respondent.

Submission of learned counsel for the appellant

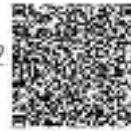
13. Learned counsel for the appellant–plaintiff Krishna Ram has argued that the judgment and decree passed by the learned lower appellate Court reversing



the well-considered judgment of the trial Court is contrary to law and evidence on record. It is submitted that the trial Court had rightly decreed the suit by holding that the decree dated 29.04.1988 was obtained by way of fraud and misrepresentation and that the same was a nullity in the eyes of law. The learned lower appellate Court erred in ignoring settled legal principles and the material evidence brought on record by the plaintiff.

14. Learned counsel for the appellant placed reliance upon the judgment of the Hon'ble Supreme Court in *Bhoop Singh vs. Ram Singh Major and Others*, *AIR 1996 SC 196*, to contend that where a right in immovable property is created for the first time, the decree requires registration. In the present case, admittedly, the defendant had no pre-existing right in the suit property; therefore, the alleged family settlement forming the basis of the 1988 decree was without foundation and could not transfer ownership in favour of the defendant. It is further argued that the case is fully covered by the ratio laid down in *S.P. Chengalvaraya Naidu vs. Jagannath and Others* (*AIR 1994 SC 853*) and *Smt. Badami (deceased) by her L.R. vs. Bhali* (*2012*) *11 SCC 574*, wherein it has been held that a judgment or decree obtained by playing fraud upon the Court is a nullity and non est in the eyes of law, and such a decree can be challenged even in collateral proceedings. It is further submitted that fraud vitiates all judicial acts, and no estoppel can operate against a person who has been a victim of fraud.

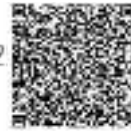
15. It is contended that the learned lower appellate Court's finding that the appellant had voluntarily suffered the decree is wholly unsustainable, as there is nothing on record to suggest that the plaintiff knowingly admitted the pleadings in the earlier suit. The trial Court rightly held that the plaintiff was an old and



illiterate person who was misled into putting his thumb impressions on papers under the pretext of standing surety for a bank loan, which were later misused to procure the decree. The observation of the lower appellate Court that the fraud was not pleaded or proved is factually incorrect, as the plaintiff specifically pleaded the fraudulent conduct of Babu Ram, the father of the defendant, and deposed to that effect on oath. Once fraud was pleaded and supported by sworn testimony, the burden shifted upon the defendant to disprove the allegation, which the defendant failed to do.

16. It is further submitted that the finding of the lower appellate Court invoking the bar of Order 23 Rule 3A CPC is beyond the pleadings, as no such plea was ever taken by the defendant in his written statement. The lower appellate Court therefore committed a jurisdictional error in deciding the appeal on a ground not raised by the parties. It is also urged that the observation of the lower appellate Court that the decree did not require registration is contrary to the settled position of law laid down in *Bhoop Singh's case (supra)*. The learned counsel further relied on Ex.P-11 to P-40 (electricity bills and receipts), which were duly produced before the trial Court, to show that the tubewell in the suit property stood in the name of Krishna Ram and that he was paying the electricity charges, thereby proving his continued possession over the suit property.

17. The appellant's counsel further pointed out that the case of the defendant that Krishna Ram was duly compensated in lieu of the land allegedly given to the defendant stands falsified by the testimony of DW4, Babu Ram himself, who admitted in cross-examination that nothing was given to Krishna Ram in exchange for the alleged family settlement and that he never accompanied

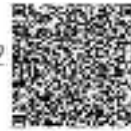


Krishna Ram to the Court at the time the decree was passed. These admissions clearly prove that the decree in favour of the minor defendant was obtained by fraud and misrepresentation. The lower appellate Court, therefore, erred in holding otherwise, and the impugned judgment is liable to be set aside.

Submissions of learned counsel for the respondent

18. On the other hand, learned counsel for the respondent–defendant has supported the judgment of the lower appellate Court, contending that it is well-reasoned and based on proper appreciation of evidence. It is argued that in the previous suit filed on 27.01.1988, the plaintiff Krishna Ram himself filed a written statement (Ex.D1) admitting the claim of the defendant and also executed a compromise (Ex.D2) before the Court, where the statements of both parties were duly recorded (Ex.D3). Therefore, the decree dated 29.04.1988 was passed on the voluntary admission and compromise of Krishna Ram and was perfectly legal and binding.

19. The respondent’s counsel further submitted that under Order 23 Rule 3 CPC, once a compromise decree is passed, no separate suit lies to challenge it; the only remedy available to the aggrieved party is to approach the same Court that recorded the compromise. It is also argued that there is no specific pleading or evidence of fraud on record, as the plaintiff has failed to produce any independent or convincing material to substantiate his claim. The electricity bills relied upon by the appellant were objected to at the time of tendering on the ground of mode of proof and admissibility; mere exhibition of documents does not amount to proof in law. The respondent further pointed out that the decree was duly acted upon, the land was mutated in the name of the defendant, and the revenue records reflected

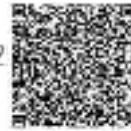


his ownership and possession. It was also argued that the plaintiff Krishna Ram has since died and has been substituted by his legal representative Lachhman Singh, who is a distant relative, and hence the present proceedings are being prosecuted by a person having no direct interest in the property. Lastly, it was argued that the plaintiff did not provide any detailed particulars of fraud in his plaint and that the trial Court failed to record a specific finding supported by evidence on that issue.

Findings of this Court

20. After hearing the learned counsel for the parties and perusing the records of the courts below, I am of the considered view that the present Regular Second Appeal is devoid of any merit and is liable to be dismissed. The judgment and decree passed by the learned lower appellate court are well reasoned and based upon correct appreciation of facts and law. The findings recorded by the trial court were perverse and contrary to the evidence on record and have rightly been reversed by the learned first appellate court.

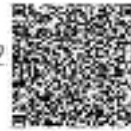
21. The principal contention raised by learned counsel for the appellant that the decree dated 29.04.1988 was obtained by playing fraud upon the court and is therefore a nullity cannot be accepted. The plea of fraud must be specifically pleaded and proved by cogent evidence, as required under Order 6 Rule 4 CPC. A bare allegation of fraud, unsupported by convincing particulars or independent corroboration, cannot vitiate a decree passed by a competent court. In the present case, the plaintiff himself admitted during his statement before the trial court that he had appeared in court and suffered the decree in favour of the defendant. The plea now sought to be raised that he was deceived into putting his thumb impressions under the pretext of standing surety for a loan is an afterthought,



inconsistent with his own earlier conduct. The courts have repeatedly held that a person who has consciously participated in proceedings and admitted a claim cannot later turn around to challenge the decree on vague allegations of deceit.

22. The reliance placed by the appellant upon the judgments of the Hon'ble Supreme Court in *S.P. Chengalvaraya Naidu vs. Jagannath and Others* and *Smt. Badami (deceased) by her L.R. vs. Bhali* is misplaced. In both the said decisions, the fraud alleged was clearly proved by withholding of vital documents and deliberate suppression of material facts before the court. In contrast, the appellant in the present case has neither identified any such material concealment nor produced any independent evidence to show that the defendant or his father Babu Ram misled the court at the time the earlier decree was passed. The plea of fraud, therefore, remains a mere assertion without substantiation. The lower appellate court has rightly held that no evidence was forthcoming to suggest that Krishna Ram was misled, and his own statement in the earlier proceedings, supported by the written statement (Ex.D1), compromise (Ex.D2) and recorded statements (Ex.D3), clearly establish that the decree was suffered voluntarily. Fraud no doubt vitiates every solemn act, but courts must distinguish between genuine deceit and a belated attempt to undo one's own conscious admission. The present case falls in the latter category. Permitting such challenges would destroy the finality of judicial proceedings and encourage litigants to renege on their own solemn undertakings. The justice system cannot countenance such abuse

23. The next submission of the appellant that the decree in question required registration under Section 17 of the Registration Act, 1908 also has no force. The learned lower appellate court has correctly observed that the decree did

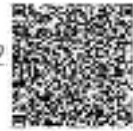


not create any new right for the first time but only embodied the admission of the plaintiff in the earlier suit acknowledging the transfer of property in favour of the defendant. Where the decree merely affirms pre-existing rights as admitted by the parties, it is not compulsorily registrable. Reliance is placed on **Som Dev and Ors. Vs Rati Ram and Anr. 2006(4) RCR (civil) 303**, wherein the Hon'ble supreme court, in para 10 held that :

“....the position that emerges is that a decree or order of a court is exempted from registration even if clauses (b) and (c) of Section [17\(1\)](#) of the Registration Act are attracted, and even a compromise decree comes under the exception, unless, of course, it takes in any immovable property that is not the subject matter of the suit. ”

24. Equally untenable is the appellant's contention that the lower appellate court erred in invoking Order 23 Rule 3A CPC. It is well settled that once a decree is passed on the basis of a lawful compromise between the parties, no separate suit lies to challenge the same, and the only remedy available is to move the same court which recorded the compromise. Even if the plea was not specifically taken in the written statement, the bar under Order 23 Rule 3A CPC being statutory, it operates irrespective of the pleadings. The learned lower appellate court has therefore not committed any error in holding that the subsequent suit to challenge a compromise decree was not maintainable. It is held by the Hon'ble Supreme court in **Pushpa Devi Bhagat (D) Th. LR. Smt. Sadhna Rai vs Rajinder Singh & Ors. 2006 (3) RCR (civil) 479**, para 12 that :

“12. The position that emerges from the amended provisions of Order 23, can be summed up thus :



(i) No appeal is maintainable against a consent decree having regard to the specific bar contained in section [96](#)(3) CPC.

(ii) No appeal is maintainable against the order of the court recording the compromise (or refusing to record a compromise) in view of the deletion of clause (m) Rule 1 Order 43.

(iii) No independent suit can be filed for setting aside a compromise decree on the ground that the compromise was not lawful in view of the bar contained in Rule 3A.

(iv) A consent decree operates as an estoppel and is valid and binding unless it is set aside by the court which passed the consent decree, by an order on an application under the proviso to Rule [3](#) Order [23](#).’’

25. The appellant’s argument that the lower appellate court ignored evidence of possession, such as electricity bills (Ex.P11 to Ex.P40), is equally without merit. Mere exhibition of documents is not sufficient proof of possession unless they are duly proved by the person maintaining such records. The plaintiff did not examine any official witness to authenticate these documents, and moreover, the revenue entries consistently show the possession of the defendant. The oral evidence led by the plaintiff was inconsistent and unreliable. His own witnesses contradicted his claim of possession and were unable to produce any credible proof of cultivation by the plaintiff.

26. As regards the plea that no compensation was given to the plaintiff as alleged, in lieu of the alleged family settlement, this argument is also of no avail. The existence or absence of monetary compensation is irrelevant once the plaintiff had voluntarily admitted the transfer in the earlier proceedings. The admission and

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compromise duly recorded by the competent court are binding unless vitiated by proven fraud, which has not been established here.

27. The learned lower appellate court has examined the entire material afresh, recorded detailed findings that the plaintiff failed to prove the plea of fraud or misrepresentation, and rightly held that the decree dated 29.04.1988 was lawful and binding upon the parties. No other point was raised before this Court.

28. For the foregoing reasons, the appeal is dismissed being devoid of merit. The judgment and decree dated 27.01.1999 passed by the learned Additional District Judge, Jagadhri, are affirmed.

29. Pending application(s), if any, also stands disposed of.

November 04, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No