

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

C.R.No.6846 of 2011 (O&M)

Date of Decision: December 15, 2015

Milkha Singh

...Petitioner

Versus

Bagicha Singh (deceased) through L.Rs & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Kushagra Mahajan, Advocate for
Mr.Amit Jain, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-decree holder is aggrieved of the impugned order dated 26.7.2008, whereby Execution Application No.109-8 of 2003, has been dismissed.

The facts arising of the execution application are that Bagicha Singh filed a suit for declaration claiming ownership of the suit property on the basis of the Will. The petitioner-decree holder, namely, Milkha Singh also filed counter-claim. The civil suit filed by Bagicha Singh was dismissed, whereas the counter-claim filed by Milkha Singh was decreed vide judgment and decree dated 12.8.1999 and the claimant was held entitled to seek possession of the suit land. After passing of the aforementioned judgment and decree, one Amrik Singh filed a civil suit against Bagicha Singh and present petitioner Milkha Singh arraying them as defendants by setting up an agreement to sell entered into between Jagir

Singh predecessor-in-interest of Milkha Singh. The said suit was decreed vide judgment and decree dated 20.9.1993. However, in the appeal filed by Milkha Singh, the matter was compromised and judgment and decree dated 3.1.2000 was passed, whereby Amrik Singh was held entitled to half share in the suit property, whereas petitioner Milkha Singh to other half share. The aforementioned compromise decree was challenged by one Bhagwan Singh by filing Regular Second Appeal bearing No.1676 of 2000. In the aforementioned appeal, Milkha Singh was arrayed as respondent No.1, whereas Amrik Singh and others as respondent Nos.2 to 9 and 10 to 26 were arrayed as proforma respondents. This Court while noticing the fact that the compromise was entered into between Amrik Singh and Bhagwan Singh, disposed of the Regular Second Appeal vide order dated 18.4.2001 and held that the parties shall be bound by the compromise Ex.C1.

Mr.Kushagra Mahajan for Mr.Amit Jain, learned counsel appearing on behalf of the petitioner-decree holder submits that petitioner Milkha Singh was not signatory of the compromise and, therefore, the findings rendered in the Regular Second Appeal would not be binding upon his rights. Moreover, he had filed an execution application seeking execution of the judgment and decree dated 12.8.1999. Earlier execution application was withdrawn having been not satisfied, but thereafter after ascertaining the identity of the property, again execution application was filed, which has been dismissed vide the impugned order. He further submits that since the judgment and decree dated 12.8.1999 has been merged into the judgment and decree dated 3.1.2000 passed in civil suit titled as Amrik Singh Versus Bagicha Singh and others, he would be entitled to only half share in the property and not the full share as per the

judgment and decree dated 12.8.1999 and the aforementioned aspect has not been noticed by the trial Court.

I have heard the learned counsel for the petitioner and appraised the paper book.

Service is complete. There is no representation on behalf of the respondents.

From the shorn of the aforementioned facts, I am of the view that the petitioner-decree holder would be entitled to seek the execution of the judgment and decree dated 3.1.2000 as the judgment and decree dated 12.8.1999 has been merged into the same, in essence, he would be entitled to only half share in the property as per the compromise dated 21.12.1999. He shall not be bound by the compromise noticed in the order dated 18.4.2001 passed by this Court while disposing of the Regular Second Appeal as he was not signatory of the compromise.

The revision petition stands disposed of.

December 15, 2015
ramesh

(AMIT RAWAL)
JUDGE