

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A. No. 847 of 2003

Date of decision : February 12, 2015

Kapil Dev Sharma and another	... Appellants
vs.	
Jat High School Kaithal and others	... Respondents

R.S.A. No. 848 of 2003

Kapil Dev Sharma and another	... Appellants
vs.	
Jat High School Kaithal and others	... Respondents

R.S.A. No. 695 of 2003

Mohinder Singh Dhull	... Appellant
vs.	
Jat High School, Kaithal and others	... Respondents

R.S.A. No. 696 of 2003

Haryana Rural Education Society, Kaithal	... Appellant
vs.	
Lal Chand and others	... Respondents

R.S.A. No. 1491 of 2003

Rao Ran Pat Singh Trust Kaithal	... Appellant
vs.	
The State of Haryana and another	... Respondents

R.S.A. No. 1493 of 2003

Bhim Singh

... Appellant

vs.

Jat High School, Kaithal

... Respondent

Civil Revision No. 4484 of 2009

Jat High School Society (Regd.) Kaithal

... Appellant

vs.

Pal Ram @ Satpal Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. O.P. Goyal, Sr. Advocate with
Mr. Ranjeet Singh Kang, Advocate and
Mr. Randeep Singh, Advocate
for the appellants (RSA Nos. 847, 848 and 695 of 2003).

Mr. Arun Jain, Sr. Advocate with
Mr. Chetan Salathia, Advocate
for the appellant No.2-Ram Saran in
RSA No.695 of 2003 and for respondents in CR-4484 of 2009.

Mr. Ramesh Hooda, Advocate
for the respondent-Jat High School, Kaithal.

Surinder Gupta, J

This order will dispose of Regular Second Appeals captioned above as these appeals relate to the similar subject matter which is mainly related to the management of properties of Jat High School, Kaithal.

Civil Suit No. 282/1997 was filed by Jat High School Kaithal through its Manager claiming the relief as follows :-

“It is accordingly prayed that in view of the aforesaid facts, a decree for declaration to the effect that the plaintiff/society is the only lawful constituted society entitled to manage and control Jat High School, Kaithal as also movable/immovable properties attached to the plaint also described in para 2 and 3 of this plaint and the so called societies flouted by the def.No.1

in league with defts.No.2 to 6 now impleaded as defts.No.7 to 9 in this suit are nonest, illegal, bogus nul and void, without any foundation in the eyes of law and as such has got no bearing at all with the plaintiff and its properties referred to above and the alienation of plaintiff's property made in favour of defts.No.10 is also liable to be set aside as such, be passed with costs in favour of the plff. and against the defts.”

Another Civil suit No.288/93/98 was filed by Jat High School, Kaithal challenging the collusive decree dated 2.9.1992 passed by the then Senior Sub Judge, Kaithal in Civil Suit No.1102 of 1992. The relief claimed in this case reads as follows :-

“It is, therefore, prayed that a decree for declaration to the effect that the impugned decree dated 2.9.1992 passed by the Senior Sub Judge, Kaithal in Civil Suit No.1102 of 1992 is nonest, null and void, based on fraud, illegal and is not binding on the plaintiff or its property including salary account No.558 with Punjab National Bank. I.G. College Branch, Kaithal, be passed with costs, in favour of the plaintiff and against the defendants.”

Haryana Rural Education Society alias Jat High School Kaithal, through its Manager filed another civil suit bearing No.242 of 1995 seeking injunction against private defendants/respondents Lal Chand, Jaila, Suba, Lal Singh, Partapa and Khem Chand, pertaining to the land measuring 200 kanal 18 marla as described in para No.2 of the plaint, to restrain them from interfering in possession of plaintiff.

Civil Suit No.2109 was filed by State of Haryana under Section 88 CPC against R.S. Chowdhry Ranpat Singh Memorial Trust Kaithal through its Chairman M.S. Dhull and Managing Committee of Jat High School and Rural College of Education, Kaithal. This suit pertains to the payment of rental of the building hired for Police Lines, Kaithal.

Another civil suit No.312/1997/1995 was filed by Mange Ram Sharma against Jat High School Society Managing Committee, Kaithal through Lal Singh Malik and Haryana Rural Education Society/Jat High School, Kaithal through its Manager Ram Saran claiming the relief as

follows :-

“It is, therefore, prayed that necessary direction may kindly be issued to the defendants to get their status as Managing Body decided from the court of law.

It is, further prayed that during pendency of this suit the proceedings titled Jat High School Society versus Manage Ram, pending in the court of A.C. Ist Grade Kaithal and next date of hearing is 21.12.1995 and a case under Section 14 of the Arbitration Act pending in the court of Sh. J.S. Jangra, Senior Sub Judge, Kaithal titled as Haryana Rural Education Society versus Mange Ram, next date of hearing is 13.1.1996, may kindly be stayed.”

All the above civil suits were taken up together and decided vide judgment dated 31.8.2000 by Civil Judge (Sr. Division), Kaithal. The relief clause of the above judgment reads as follows :-

*“In view of my above issue-wise findings, the civil suit titled as Jat High School vs. M.S. Dhull etc. bearing Civil Suit No.282/97/91, suit titled as State of Haryana vs. R.S. Chaudhary & another bearing Civil Suit No.2109/92 and the Civil Suit titled as Jaat High School vs. Bhim Singh etc. bearing Civil Suit No.288/97/93 succeed and a decree for declaration is passed **in favour of the plaintiff and against the defendants with costs of the suit, to the effect that the plaintiff Jat High School Society (Regd.) Kaithal is the only lawful constituted Society and the movable/immovable properties attached to the plaintiff's School detailed in para No.2 and 3 of the plaint and the so called Societies flouted by defendant No.1 Sh.M.S. Dhull in league with defendants No.2 to 6, now impleaded as defendants No.7 to 9 in this suit, are nonest, illegal, bogus, null and void, without any foundation in the eyes of law and as such, has got no bearing at all with the plaintiff Society and its properties and the alienation of the property of plaintiff Society in favour of defendant No.10, is hereby set-aside.** It is further held that the plaintiff society*

*i.e. Jat High School Society (Regd.) Kaithal is legally entitled to receive the arrears of rent of the demised premises mentioned in para No.1 of plaint of Civil Suit No.2109/92, from the State of Haryana through Superintendent of Police, Kaithal and the present defendant No.1 Sh.M.S. Dhull or R.S. Chowdhry Ranpat Singh Memorial Trust, Kaitihal through its Chairman M.S. Dhull or the so called Haryana Rural Education Society, are not entitled to receive any arrears of rent from the State of Haryana through S.P. Kaithal and it is further held that the impugned decree dated 2.9.1992 passed by the then Senior Sub Judge, Kaithal in Civil Suit No.1102 of 1992 is nonest, null and void, based on fraud, illegal and not binding on the plaintiff Society or its property including salary Account No.558 with Punjab National Bank I.G. College Branch, Kaithal. **The Civil Suit bearing No.298/97/94 titled as Mange Ram vs. Lal Singh etc. Civil Suit No.242 of 1995 titled as Haryana Rural Education Society vs. Lal Chand etc. and the Civil Suit No.312/97/95 titled as Mange Ram Sharma vs. Jat High School are hereby dismissed with costs.***

The appellants filed appeals which were also taken up together and were dismissed by the Additional District Judge, Kaithal vide judgment dated 18.12.2002.

Not satisfied the appellants have come up against the judgment passed by the courts below.

At the very outset learned counsel for the appellants submit that the courts below have recorded observations while recording findings on issue No.3 with regard to legality and validity of the lease deed executed by Haryana Rural Education Society alias Jat High School and has recorded findings that Mr. M.S. Dhull was having no locus standi or authority to execute the lease deed. It was observed that all the alienation of the property of Jat High School are illegal, null and void. However, neither any relief seeking setting aside of alienation were sought in civil suit No.282 of 1997 except the one in favour of Davinder Singh Dhull son of Lal Chand.

Davinder Singh Dhull has not come up with any appeal against setting

aside of the alienation of property of Jat High School in his favour. Though there was mention in para No.15 of the plaint of Civil Suit No.282/1997 that defendant/respondent No.1 Mohinder Singh Dhull in connivance with other defendants executed five lease deeds each pertaining to 25 acres of land for a period of 99 years in favour of Ram Saran, Mange Ram Dhull, Mange Ram Sharma, Jasmeet Singh and Sarup Singh but no relief in this suit was sought seeking setting aside of aforesaid lease deeds, as such, observations made by the civil court about the aforesaid alienation are *obiter dicta* not binding on the parties.

On perusal of the relief allowed by the learned Civil Judge, it is apparent that no relief qua the lease deeds as mentioned in para No.15 of the plaint was allowed. Learned Civil Judge, Kaithal while decreeing civil suit number 282/1997 declared the plaintiff-Jat High School Society as the only lawfully constituted society and has set aside the alienation of the property of the plaintiff society in favour of defendant No.10. The interpleader suit filed by the State of Haryana was also decided in favour of Jat High School Registered Society, Kaithal and the collusive decree dated 2.9.1992 passed in Civil Suit No.1102 of 1992 was also set aside. As the Civil Judge and the first appellate court have not allowed any relief regarding the lease deed mentioned in para 15 of the plaint in C.S. No. 282/1997/1991, as such judgments of the courts below are not executable qua these lease deeds. However, while deciding issue No.3 regarding alienation made by Mr. M.S. Dhull and Haryana Rural Education Society some observations have been made about legality and validity of these lease deeds but on the basis of those observations no relief has been allowed to the plaintiffs, as such any observations qua those alienation, are *obiter dicta* and not binding on the parties to the suit.

Sh. O.P. Goyal and Mr. Arun Jain, Senior Advocates fairly conceded that since the lease deed in favour of the appellants are not effected by the judgment and decree of the courts below, plaintiff have nothing else to claim in these appeals. The findings of the courts below on other issues has not been challenged. Learned counsel for appellants argue that the challenge in this appeal is only qua the alienation made by Haryana Rural Education Society through M.S. Dhull and the appellants are

agitating their rights only under the lease executed in their favour which are not effected by the judgments and decree passed by the courts below, as such, they have no reason to assail the judgment and decree of the courts below on this account. Learned counsel representing Jat High School, also submits that the courts below have not set aside the lease deed as separate proceedings qua these lease deeds were taken before revenue court.

On perusal of judgment and decree of lower court and record of the courts below no substantial question of law arises in these appeals for determination.

The Regular Second Appeals No.847, 848, 695, 696, 1491 and 1493 of 2003 have no merits and are dismissed.

Civil Revision No. 4484 of 2009

The order passed by the Civil Judge (Jr. Division), Kaithal dated 27.3.2009 has been challenged by the revision petitioner whereby the civil suit filed by the revision petitioner was stayed in view of the pendency of the appeal against the judgment passed in Civil Suit No. RBT 282 of 1997 (RSA Nos.847 and 695 of 2003). Both the above mentioned regular second appeals are being disposed of by this judgment, as such, this revision petition is disposed of with direction to the Civil Judge (Jr. Division), Kaithal to take up the file of Civil Suit No.153 of 2007 and proceed with the case and dispose of the same in accordance with law. As the suit pertains to the year 2007, it is directed that the proceedings in the civil suit be expedited and the same shall be disposed of within a period of one year from the date of receipt of copy of this judgment.

(Surinder Gupta)
Judge

February 12, 2015
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