

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

RSA No.3064 of 2011 (O&M)

Date of Decision: October 08, 2015

Shyam Lal and others

.... Appellants

vs.

Smt. Ram Piari and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sanjay Dhiman, Advocate for the appellants.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

CM-8391-C-2011

There is delay of 12 days in filing the present appeal.

For the reasons mentioned in the application supported by an affidavit, delay of 12 days in filing the present appeal is condoned subject to all just exception.

Application stands disposed of.

RSA-3064-2011

Challenged in the present regular second appeal is the judgment and decree dated 01.09.2010 passed by learned Addl. District Judge, Ambala, affirming the judgment and decree dated 20.03.2008 passed by learned Addl. Civil Judge (Sr. Divn.), Ambala City, vide which the suit of the plaintiff for declaration along with consequential relief of permanent injunction was dismissed with costs under Order XVII, Rule 3 CPC.

Briefly stated, the plaintiff had challenged the Award dated 09.11.2002 passed by the Permanent Lok Adalat in Civil Suit No.939 of 2002, titled as “Smt. Ram Piari vs Birbal” in favour of defendant Nos.1 to 7 on the ground that the property was purchased by their father Birbal from the Rehabilitation Department in open auction from his own funds as well as from the income of the plaintiffs. It was further alleged that defendant Nos.1 to 7 brought Birbal to Amabla and obtained his thumb impressions on a blank paper on the pretext that he had to depose as witness in some civil suit and decree was obtained.

Before the lower court, defendant No.8-Birbal did not appear to contest the suit. After framing of the issues, the plaintiffs failed to lead any evidence. Consequently, the suit was dismissed under Order XVII, Rule 3 CPC after recording that the plaintiffs had failed to prove their case.

I have heard learned counsel for the appellants and have also carefully gone through the case file.

In this case, the plaintiffs claim that they had contributed to the funds with which the disputed property was purchased by their father from the Rehabilitation Department. However, they have not produced any proof that they have contributed to the funds. So far as the grounds of fraud and misinterpretation are concerned, the plaintiffs have no locus standi to challenge the decree on the ground that he was not party to the suit and not defrauded. Respondent No.8-Birbal has not challenged the said decree/award.

It being so, no substantial question of law arises in the present appeal.

Hence, the present regular second appeal stands dismissed.

October 08, 2015
sarita

(KULDIP SINGH)
JUDGE