

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

RSA No. 1462 of 2012 (O&M)

Date of decision : 8.9.2015

Jai Parkash and others

... Appellants

versus

Rameshwar and another

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Sumit Gupta, Advocate, for the appellants.

Rajesh Bindal, J.

The plaintiffs are before this Court against concurrent findings of fact recorded by both the Courts below, whereby the suit filed by them for declaration with consequential relief of permanent injunction, was dismissed.

In the suit filed by the appellants, it was claimed that grand-father of the plaintiffs and defendants, namely Bhagwana, who died on 2.12.1966, was owner in possession of 8 marlas of land. Father of the plaintiffs Mauji Ram died in the year 1985, whereas father of the defendants Ram Sarup died in the year 1984. However, the defendants claimed themselves to be owner in possession of suit property on the basis of some forged Will dated 5.10.1966, executed by Bhagwana in favour of Ram Sarup. Mutation was also sanctioned in favour of the defendants. The plaintiffs came to know about this fact, when the defendants declared themselves to be the exclusive owners of the suit property. As they wanted to dispossess the plaintiffs from the suit land, suit was filed.

Both the Courts below found that the appellants have not been able to make out a case. The plaintiffs have not sought setting aside of the Will. Though the witnesses of the plaintiffs claimed that in the earlier suit filed by them, a compromise was effected between the parties and as per that the Will executed by their grand-father was termed fabricated and false

and it was resolved that the parties would be co-owners of the suit property, however, the same has not been produced on record. On the other hand, the respondents proved on record the original compromises, Ex. D1 and D2, which show that in the presence of the parties and respectable persons of the village, the value of the suit property was assessed at ₹ 6,000/-. The defendants paid ₹ 1,500/- to the appellants, who gave up their share in the suit property. The defendants have proved on record this fact by leading cogent and convincing evidence. It has rightly been held by the learned Courts below that since the parties had earlier compromised, the issue of fabrication of Will does not survive. The factum of compromise and the institution of previous suit was concealed by the plaintiffs.

For the reasons mentioned above, I do not find that the findings recorded by the learned Courts below are perverse. No substantial question of law arises. The appeal is accordingly dismissed. Consequently, the accompanying applications are also dismissed.

8.9.2015
vs

(Rajesh Bindal)
Judge