

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

**RSA No.3377 of 2012 (O&M)  
Date of decision: 15.12.2015**

Mohinder Kaur (since deceased) through LRs  
& others

... Appellants

Vs.

Balbir Kaur

... Respondent

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

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

Present:- Mr. Jagdish Manchanda, Advocate and  
Mr. Ravi Gakhar, Advocate  
for the appellants.

**AMIT RAWAL J. (Oral)**

**C.M.No.9026-C of 2012**

Deficiency of the Court fee, has been made good.

C.M. stands disposed of.

**C.M.No.9027-C of 2012**

For the reasons stated in the application, duly supported by an affidavit, delay of 140 days in re-filing the appeal, is condoned.

C.M. stands disposed of.

**C.M.No.9028-C of 2012**

The application is allowed, subject to all just exceptions

**C.M.No.9031-C of 2012**

Prayer in the application is for producing the additional

evidence in the form of Annexure P-1.

No ground is made out for producing the additional evidence as no reasons, as permitted in law, have been assigned, thus, the present application is dismissed.

**RSA No.3377 of 2012 (O&M)**

The appellant-plaintiffs are in Regular Second Appeal against the concurrent findings of facts and law, whereby, the suit claiming declaration for setting aside the judgment and decree dated 08.03.1995 passed in civil suit No.64/07-02-1995 titled as 'Rajbir Kaur vs. Parsan Kaur, in respect of land measuring 69 kanals 2 marlas being ½ share out of the total land measuring 138 kanals 5 marlas, has been dismissed, by both the Courts below.

Mr. Jagdish Manchanda, learned counsel appearing on behalf of the appellant-plaintiffs submits that the aforementioned judgment and decree could not have been suffered by Parsan Kaur as fraud was played upon her. She did not lead evidence nor filed any written statement. As per the judgment and decree, the beneficiaries are Balbir Kaur daughter of Gurdial Singh and sisters of Gurdial Singh. At the best, they are also entitled to their respective share. The property at the hands of Badhwa Singh was ancestral in nature, therefore, could not have been transferred by suffering a collusive decree, thus, there is illegality and perversity in the findings rendered by both the Courts below, much less, substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellant-plaintiffs

and appraised the impugned judgments and decrees of the Courts below.

No ingredients of Order 6 Rule 4 of the CPC, has been proved by leading direct and cogent evidence. Badhwa Singh acquired ½ share of the property after the demise of Krishan Singh. On demise of Badhwa Singh, the property devolved upon his legal heirs and Parsan Kaur become absolute owner and suffered a collusive decree, aforementioned, in favour of defendant No.1. No explanation has come forth in not challenging the decree within a period of three years. The plea that the appellant-plaintiffs had acquired knowledge of the property on demise of Parsan Kaur who died on 16.01.2004, is not sustainable as the property had already been mutated in favour of Balbir Kaur after rendering of the aforementioned judgment and decree.

Keeping in view the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**December 15, 2015**  
savita