

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RSA No.78 of 2012 (O&M)

Date of decision: 04.09.2015

GURDEEP KAUR AND ORS.

..... Appellant

versus

HARBANS KAUR AND ORS.

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr.C.M.Munjal, Advocate for the appellants
Mr.Tribhuan Singla, Advocate for the respondents

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 No.211-C of 2012

This application has been filed for condonation of 8 days delay in filing the appeal. The application is accompanied by an affidavit. For the reasons mentioned therein, it is allowed and 8 days delay in filing the appeal stands condoned.

RSA No.78 of 2012

Impugned in the present regular second appeal is the judgment and decree dated 16.8.2011, passed by the learned Additional District Judge, Barnala, affirming the judgment and decree dated 13.1.2011, passed by the learned Civil Judge, Senior Division, Barnala, vide which, the suit of the plaintiffs was dismissed.

Briefly stated, the plaintiffs had challenged the judgment and decree dated 8.6.1983, passed by learned Addl.Senior Sub Judge, Barnala in Civil Suit titled as Kesar Singh v. Bhagwan Kaur on the ground that the same was obtained by fraud and not binding upon the plaintiff.

The contention of learned counsel for the appellants is that the alleged compromise on the basis of which decree was passed, was effected on the same day i.e. on 8.6.1983 and on the same day suit was filed. Bhagwan Kaur appeared on the same day and on the same day decree was passed.

I am of the view that these facts itself do not constitute a fraud. There is nothing on the file to show that Bhagwan Kaur did not appear to make the statement. Kesar Singh was none else than the son of Bhagwan Kaur born from the second marriage with Arjan Singh. Suit was filed by the present plaintiffs in the year 2003 i.e. 18 years after the passing of the said decree and same was held to be time barred. Bhagwan Kaur had died in the year 1985 i.e. after two years of the passing of the decree dated 8.6.1983 and did not challenge the same. These are the findings of facts recorded by the two Courts below. No substantial question of law arises in the present appeal.

Hence, the appeal is dismissed.

In view of disposal of the appeal, all the pending applications also stand disposed of.

04.09.2015**gk****(Kuldip Singh)
Judge**