

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 67 of 2013 (O&M)
Date of decision: 23.4.2015

Katar Singh

.. Petitioner

v.

Harvir and others

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sandeep K. Sharma, Advocate for the petitioner.
Mr. Harsh Kinra, Advocate for respondents No. 2 and 3.

...

Rajesh Bindal J.

The plaintiff is before this court against concurrent findings of fact recorded by both the courts below, whereby the suit filed by him for challenging the judgment and decree dated 26.11.1991 suffered by Beg Raj, his father, in favour of his two sons, namely, Harvir and Narender Pal (deceased), was dismissed.

The consent decree was suffered by Beg Raj in favour of his grand sons, who are none else than sons of Katar Singh-plaintiff. Mutation was also sanctioned in their favour on 29.12.1992. Beg Raj died on 26.1.1998. Part of the property was sold by the beneficiaries in the consent decree, namely, sons of the appellant vide sale deeds dated 21.8.1998 and 9.9.1998. Immediately thereafter, Katar Singh filed the suit challenging the consent decree dated 26.11.1991 and the aforesaid two sale deeds on the plea of fraud. The fact remains that Beg Raj during his life time did not challenge the consent decree suffered by him in favour of his two grand sons, who are none else than sons of the appellant. The suit was filed by the appellant on 13.10.1998 after the death of Beg Raj and immediately after

part of the property was sold by his sons vide registered sale deeds dated 21.8.1998 and 9.9.1998. Though a plea of fraud was raised, but except the bald statement of the appellant, no other evidence was led. The plea of fraud was not being raised by the person, who allegedly suffered the consent decree, rather, after his death by his son in a case where the consent decree was suffered by plaintiff's father in favour of plaintiff's sons. The connivance of the parties is also established from the fact that sons of the appellant, in whose favour consent decree had been suffered by Beg Raj deceased, their grand sons, did not appear before the courts below and were proceeded against ex-parte. It was the admitted case of the appellant before the courts below that Beg Raj was fully entitled to deal with the property in the manner he liked, the same being not ancestral.

For the reasons mentioned above, I do not find any error in concurrent findings of fact recorded by both the courts below. No substantial question of law arises. The appeal is, accordingly, dismissed. Consequently, the accompanying applications are also dismissed.

(Rajesh Bindal)
Judge

23.4.2015
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