

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

RSA No.1921 of 2015 (O&M)
Decided on :16.11.2015

Yashwant Suhag & ors.

.... Appellants

vs.

Vijender Singh & anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. S.K.Sharma, Advocate
for the appellants.

Arun Palli, J.(Oral)

Suit filed by the plaintiffs was dismissed by the trial court vide judgment and decree dated 03.03.2012. As even the appeal preferred against the said decree failed, and, was dismissed on 22.12.2014, plaintiffs are before this Court, in this Regular Second Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

Plaintiffs prayed for a declaration that they had succeeded to 3/4th share out of the suit property mentioned in para no.1, 2 and 7 of the plaint as plaintiff No.1 had an interest therein by birth being a coparcener, plaintiff No.2 had a right therein as per family settlement and plaintiff No.3 also had an interest in the suit property pursuant to her right of maintenance. The release deed dated 23.05.2003, executed by defendant No.2 in favour of defendant No.1, qua the suit land, as also the mutation sanctioned in his favour were wholly illegal and void. Accordingly, a decree for joint possession was also claimed. It was maintained that a family settlement was arrived at between the parties in the month of May, 2003, vide which defendant No.2 had

agreed to give the suit land in equal share to the plaintiffs and also to defendant No.1. Defendant No.2 had obtained signatures of the plaintiffs on a blank paper in May 2003 on the pretext that he would get scribed a relinquishment deed in favour of the plaintiffs and defendant No.1, as per the settlement, however, he instead got executed a release deed dated 23.05.2003 in favour of defendant No.1. Defendant No.2 was not an absolute owner of the suit land as the property was ancestral and coparcenary in nature.

In defence, defendant No.1, pleaded inter alia that a family settlement did take place between the parties regarding the suit land but pursuant thereto the suit property fell into the share of defendant No.1. It was agreed that defendant No.1 would pay Rs.9,65,000/- to defendant No.2 and a release deed qua the suit land would be executed by defendant No.2 in his favour. All the family members had agreed to the said settlement and defendant No.1 had paid a sum of Rs.9,65,000/- to defendant No.2 on 23.05.2003 and as a consequence defendant No.2 had executed a release deed dated 23.05.2003 in favour of defendant No.1. So much so, the release deed in question was also signed by the plaintiffs as well as the defendants. Thus, defendant No.1 was the owner in possession of the suit land since 23.05.2003.

On a due and comprehensive consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that the plea set out by the plaintiffs that their signatures were obtained by fraud and misrepresentation by defendant No.2 remained unproved on record. Nothing was brought on record to justify as to how all the three plaintiffs could sign the document on the same day and particularly, if the plea of the plaintiffs was that all of

them signed on a blank paper. Concededly, all the three plaintiffs had signed the release deed dated 23.05.2003 as attesting witnesses no.3, 4 & 5 along with attesting witness No.1 Kapoor Singh and attesting witness No.2 Bhup Singh. Further, the release deed dated 23.05.2003, Ex.P1 was duly got registered before the Sub Registrar. The defence set out by defendant No.1 was further corroborated from the testimony of none other defendant No.2 i.e. Harish Chander, who was examined as PW-2. He conceded that on 22.05.2003, he had opened an account at State Bank of India, Matanhail and he deposited a sum of Rs.9,51,000/- on 24.05.2003. This, rather showed that the present suit was filed by the plaintiffs in collusion with defendant No.2. Plaintiff No.1 (PW-1) also conceded in his cross-examination that defendant No.1 Vijender Singh was in cultivating possession of the suit property. Concededly, the suit property had been mutated in favour of defendant No.1. Nothing was brought on record to show that the suit property was ancestral and coparcenary in nature either. Therefore, the plaintiffs failed to discharge the onus in this regard.

Learned counsel for the appellants could not point out as to how the findings that were concurrently recorded by both the Courts were either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration in the present appeal. The same being devoid of merit is accordingly, dismissed.

16.11.2015
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(Arun Palli)
Judge