

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

RSA No.5100 of 2014 (O&M)

Date of Decision: November 03, 2015

Smt. Mohinder Kaur and others

.... Appellants

vs.

Baksho and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rajiv Johsi, Advocate for the appellants.

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-12020-C-2014

There is delay of 97 days in filing the present appeal.

For the reasons mentioned in the application, supported by an affidavit, delay of 97 days in filing the present appeal is condoned, subject to all just exceptions.

Application stands disposed of.

RSA-5100-2014

The amended memo of parties filed in the Court today, is taken on record.

Impugned in the present regular second appeal is the judgment and decree dated 15.01.2014 passed by learned Addl. District Judge (Adhoc), Fast Track Court, Jalandhar, affirming the judgment and decree dated 05.01.2012 passed by learned Addl. Civil Judge (Sr. Divn.), Phillaur, vide which the suit of the plaintiff for declaration was dismissed.

Briefly stated, the plaintiff had sought declaration that the judgment and decree dated 10.06.1994 passed by learned Sub Judge 1st Class, Phillaur is illegal, null and void. The permanent injunction was also sought against the defendant for restraining them from interfering into the peaceful possession of the plaintiff over the suit land.

It is stated that defendant Nos.1 and 2, who happened to be the sons of the plaintiff might have obtained signatures/thumb impressions of the plaintiff on some blank papers and succeeded in getting the statement recorded in their favour before the learned Sub Judge 1st Class, Phillaur. Consequently, a consent decree was passed against the plaintiff, which is illegal.

It comes out that during the pendency of the suit, defendant No.1 as well as defendant No.2 died and are represented by their legal heirs. The lower court recorded the findings that the judgment and decree dated 10.06.1994 was correctly passed. The findings were affirmed in appeal by the first appellate court.

I have heard learned counsel for the appellants and have also carefully gone through the case file.

It comes out that the plaintiff Bachna had suffered a consent decree in favour of his sons. The decree was suffered in the year 1994 and the present suit was filed in the year 2001 claiming that his sons might have obtained his signatures/thumb impressions on some blank papers. No comparison of the signatures/thumb impressions was got done to prove that these are forged. If the

plaintiff alleges fraud, it was for him to prove the same. The plaintiff miserably failed to prove the alleged fraud.

Learned counsel for the appellants has argued that the consent decree was of the value of more than ₹100/- and it requires compulsory registration.

I am of the view that it is a dispute between father and the sons and it was a family settlement and was apparently a case of acceleration of succession.

Therefore, the authority of this Court in case of “**Ajay Chaudhary vs Santosh Kumar and another**”, 2004(1) R.C.R. (Civil) 807, does not apply to the facts of the present case.

The findings of the facts have been recorded by both the courts below. No substantial question of law arises in the present appeal.

Accordingly, the present regular second appeal stands dismissed.

(KULDIP SINGH)

JUDGE

November 03, 2015

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