

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

124

Regular Second Appeal No.5414 of 2014 (O&M)

Date of Decision: August 13, 2015

Manjeet Singh

...Appellant

Versus

Angrej Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Peeush Gagneja, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (Oral)

This Regular Second Appeal has been preferred by the appellant-plaintiff, who had filed a suit for declaration to the effect that the collusive decree dated 11.10.1989 passed in suit bearing No.252-1989 by the Court of Shri Dharam Singh, Sub Judge 1st Class, Fazilka, titled as *Angrej Singh Versus Hakam Singh*, vide which respondents-defendants 1 to 4 were declared as owner in possession of the land detailed in the head note of the suit, was illegal, *null and void* and against the law and facts and has been obtained by fraud and misrepresentation, thus not binding upon the appellant-plaintiff. Both the Courts below have come to the conclusion that the appellant-plaintiff has not been able to prove by cogent evidence that the decree was collusive or was obtained by fraud or misrepresentation. It has further been observed that the decree, which is of the year 1989, had not been challenged during the lifetime of Hakam Singh, who died in the year 2003.

2. It is the contention of the counsel for the appellant-plaintiff that the Courts below have not appreciated the evidence in its true perspective

and have misread the same, resulting in the judgments and decree, which are impugned in the present appeal. He further states that one of the witnesses was summoned by the appellant-plaintiff to produce the record of the civil suit but the same was not examined by the Courts below and, therefore, prejudice was caused to the appellant-plaintiff. He thus contends that the appeal deserves to be allowed and the case remanded back to the Court for fresh decision.

3. Having considered the submissions made by the counsel for the appellant, I am of the considered view that none of the grounds, which have been asserted by the counsel at the time of arguments, hold any merit.

4. On perusal of the judgments passed by the Courts below, it is apparent that the evidence, as has been led by the parties, has been dealt in the right perspective and there is no misreading of the same. The findings recorded and returned are fully justified and in accordance with law.

5. The assertion with regard to the non-examination of the witness, as was summoned by the appellant-plaintiff, if the appellant-plaintiff was aggrieved of the same, he should have immediately taken steps for redressal of the same, which at this belated stage, cannot be allowed to be taken and pressed into service.

6. In any case, no substantial question of law arises in the present appeal, which requires consideration of this Court.

7. In view of the above, finding no merit in the present appeal, the same stands dismissed.

August 13, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE