

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.702 of 2014

Date of Decision.29.09.2015

Bachan Singh

.....Appellant

Versus

Charan Singh and others

.....Respondents

Present: Mr. Deepak Choudhary Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The plaintiff filed a suit impeaching the decree suffered by plaintiff's mother in favour of the 1st defendant who was his brother contending that the decree was obtained by the brother by exercise of fraud. The decree against the mother was obtained through suit filed in Civil Suit No.975 of 1993. The mother had died in the year 1994. The suit was filed in the year 2007. I cannot entertain any plea of mother having been subjected to fraud when she herself had not complained of any such fraud during her life time and it cannot also avail to the plaintiff to bring a suit 14 years after the suit by merely saying that he came to know about the decree only three years prior to the institution of the suit. The plaintiff who claims that he is in joint possession with the defendant cannot have a grievance with regard to the transaction which her mother has suffered and I find that so long as the mother had not given up any right in the property in respect of the plaintiff's share

and if she had only given up her right in the property in favour of one of her sons to the extent to which she had a share in the property, the right to impeach it would avail only to the mother or if the plaintiff is claiming as legal representative of the mother, it must have been done within a period of three years from the date when the transaction took place. The claim was wholly barred by limitation and the basis of the suit itself for declaration that the decree was obtained by fraud or it was null and void cannot be sustained.

2. I find that there is no substantial question of law for consideration in second appeal. The second appeal is dismissed.

**(K. KANNAN)
JUDGE**

September 29, 2015
Pankaj*