

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

CR No.1901 of 2016

Date of decision: 14.03.2016

Harbans Kaur and others

..... Petitioners.

Versus

Kulwant Singh and others

.....Respondents.

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Vineet Chaudhary, Advocate
for the petitioners.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 29.02.2016 passed by the learned Civil Judge (Jr. Division), Ambala, vide which the application moved by the petitioner-plaintiffs has been dismissed for framing of the additional issue, which reads as under:-

“Whether the judgment and decree dated 26.09.1991 is legal and valid one and has been suffered by Sher Singh?OPD.”

2. Learned counsel for the petitioners contended that the defendant-respondents are relying upon the judgment and decree dated 26.09.1991 in order to claim the right, title and interest in the suit property. But, the learned trial Court has not framed the issue with respect to the validity of the

aforesaid decree. He contended that as the defendants were relying upon the judgment and decree dated 26.09.1991, so they were required to establish that the same is legal and valid. Thus, the application filed by the plaintiff-petitioners has been wrongly dismissed.

3. I have duly considered the aforesaid contentions.

4. The petitioners-plaintiffs have filed the suit for declaration to the effect that they are owner in possession to the extent of 1/ 3rd share in the suit land. They also sought the declaration that the judgment and decree dated 26.09.1991 titled as “Kulwant Singh etc. Vs. Sher Singh” passed by learned Senior Sub Judge, Ambala with respect to the suit land is illegal, null and void, ineffective, inoperative, result of fraud and misrepresentation and not binding on the rights of the plaintiffs and the same was liable to be set aside. So, the petitioners-plaintiffs are challenging the validity of the judgment and decree dated 26.09.1991 passed in Civil Suit No. 634 of 1991. It is settled principle of law that every judgment and decree passed by the Court is presumed to be legal and valid unless the same is set aside by the Court of competent jurisdiction. The petitioners have proposed the additional issue, which reads as under:-

“Whether the judgment and decree dated 26.09.1991 is legal and valid one and has been suffered by Sher Singh?OPD.”

The issue proposed by the petitioners is totally

misconceived as already mentioned that the judgment and decree passed by the Court of law is always presumed to be legal and valid unless proved otherwise. So, there was initial presumption of validity in favour of judgment and decree dated 26.09.1991. So, the burden was upon the petitioners-plaintiffs to prove that the same was null and void and was the result of fraud and misrepresentation. Thus, the additional issue proposed by the petitioners-plaintiffs could not have been framed. Thus, the application filed by the petitioners has been rightly dismissed by the learned trial Court.

5. Thus, I do not find any illegality in the impugned order calling for any interference by this Court while exercising the supervisory powers under Article 227 of the Constitution of India.

6. Resultantly, the present revision petition having, no merits, is hereby dismissed.

14.03.2016

S.khan

**(DARSHAN SINGH)
JUDGE**