

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

CR No.5372 of 2016

Date of Decision-24.08.2016

Gurdial Singh and others

... Petitioners

Versus

Gopal Chand

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. B.S. Baath, Advocate for the petitioners.

RAJ MOHAN SINGH, J.

[1]. Award dated 23.11.2013 and order dated 15.02.2016 passed by Civil Judge (Junior Division), Karnal are under challenge herein.

[2]. Plaintiff-respondent filed a suit for declaration in respect of house measuring 350 sq. yard situated in Shanti Nagar, Karnal. Defendants No.1 to 3 admitted the claim of the plaintiff and prayed for decretal of the suit.

[3]. During the pendency of the suit, a compromise was effected between the parties on 04.12.2012 which was duly signed by the parties in the presence of their counsel who have also signed in token of confirmation of the compromise. The suit was decided on the basis of compromise dated 04.12.2012. Thereafter, an application under Order 23 Rule 3-A CPC read with Sections 151, 152 CPC was filed by the defendants-petitioners for rectification/correction of compromise deed and award.

[4]. The said application was contested by the plaintiff-respondent. The suit was decreed after recording joint statements of Gurdyal Singh, Anita and Kiran to the effect that they had effected compromise with the plaintiff and had no objection in case, suit was decided on the basis of compromise. The parties were duly identified by their counsel. Similarly, plaintiff also got his statement recorded on 04.12.2012 endorsing the factum of compromise and prayed for decision on the basis of such compromise. He was also identified by his counsel in the trial Court. Consequently, award dated 23.11.2013 was passed by Civil Judge (Junior Division), Karnal officiating as Presiding Officer, National Lok Adalat, Karnal. The suit was decided on the basis of compromise which was ordered to form part of the award. Award was deemed to be decree passed by Civil Court under Section 21 of Haryana State Legal Services Authorities Act and the same was binding upon the parties. The application filed by the petitioners-defendants under Order 23 Rule 3-A read with Sections 151, 152 CPC for rectification of compromise and consequent award was dismissed by the Civil Judge (Junior Division), Karnal vide order dated 25.02.2016.

[5]. I have heard arguments of learned counsel for the petitioners.

[6]. Apparently, award was passed by the National Lok Adalat pursuant to compromise dated 04.12.2012 effected

between the parties wherein statements of both the parties were recorded by the Court. Statements of the parties were duly witnessed by their respective advocates. Consent decree and award passed by the Court are not amenable to further appeal under Section 96 of the Code of Civil Procedure. Petitioners have alleged fraud in recording of compromise. These allegations cannot be gone into in the revision.

[7]. Question of fraud cannot be gone into at this juncture in view of the fact that firstly a consent written statement was filed by the defendants-petitioners, secondly a compromise was effected which was duly signed by the parties and witnessed by their advocates. Both the parties appeared before the Court and made their respective statements. The award was passed by the Court on the basis of compromise deed. Now fraud has been alleged by the defendants to the effect that they never relinquished their shares as per compromise deed in favour of the plaintiff-respondent.

[8]. I am afraid, no such ground can be taken at this stage. The scope of Sections 151 and 152 CPC is only to rectify the clerical error in the judgments. The scope cannot be extended to meet out the allegations of fraud in recording the compromise and passing of consequent award on the basis thereof.

[9]. In view of aforesaid, no indulgence can be granted in this revision petition. If at all plaintiff is aggrieved by the

compromise or on award being done fraudulently, he would be at liberty to assail the same by way of independent civil suit. In case, such a suit is filed that would be decided by the Court in accordance with law. It is made clear that nothing expressed in the context of contemplated action of the petitioners in filing the civil suit would be construed to be an opinion on the merits of that case. Civil suit, if any filed would be decided within the parameters of law.

[10]. In view of aforesaid, there is no substance in the revision petition and the same is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

24.08.2016
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