

In the High Court of Punjab and Haryana at Chandigarh.

**CWP -24039 of 2016
Decided on 28.11.2016**

Ramesh Kumar and another

--Petitioners

Vs.

Mega Lok Adalat Samadhan and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. N.S.Panwar, Advocate, for the petitioners

Rakesh Kumar Jain,J: (Oral)

One Kanwar Bhan had three daughters and two sons. His wife pre-deceased him. One of his daughters namely, Bimla Devi filed a suit for declaration that she is owner of the property belonging to Kanwar Bhan on account of a family settlement arrived at between them. The said suit was ultimately placed before the Mega Lok Adalat in which, on the basis of compromise between Bimla Devi and Kanwar Bhan, her suit was decreed. As a result thereof, declaration was given that Bimla Devi is the owner of the property mentioned in the plaint.

Kanwar Bhan during his life time filed a civil suit for setting

aside the decree in question on the ground of fraud. Bimla Devi filed an application under Order 7 Rule 11 of CPC for rejection of the plaint which was allowed.

Kanwar Bhan filed CR No.3523 of 2013 before this Court. He expired during the pendency of the revision petition and the revision petition was dismissed by this Court on 28.1.2016 on the ground that the revision is not competent against the order of rejection of plaint because it would tantamount to a decree under Order 2 Rule 2 of CPC and was appealable.

Be that as it may, with the death of Kanwar Bhan, proceedings against the decree passed by the Mega Lok Adalat came to a halt.

It is pertinent to mention here that Kanwar Bhan also filed an application under Section 151 of CPC for setting aside the decree passed by Mega Lok Adalat but the said application was dismissed by the Civil Judge (Junior Division), Sonapat on 23.7.2014 which was challenged by his sons because Kanwar Bhan died during the pendency of the said application.

Civil Revision against the order dated 23.7.2014 was preferred by the present petitioners which was dismissed by this Court on 24.2.2016 giving liberty to the petitioners to avail the remedy as available to them in accordance with law.

Consequently, the petitioners had filed CWP No.6383 of 2016 which was withdrawn by them on 03.5.2016 in order to file a civil suit to challenge the order by which the application filed by Kanwar Bhan was allowed but the petitioners have approached this Court again by changing the counsel.

In view of the above, it is found that the present petition is not

maintainable. Even otherwise, a decree obtained by fraud can only be set aside in a civil suit.

Hence, this petition is hereby dismissed.

28.11.2016
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(Rakesh Kumar Jain)
Judge