

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

RSA-2283 of 2013 (O&M)

Date of decision: 23.02.2016

Jagat Singh

...Appellant

Versus

Teja Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. A.S. Bhatti, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

The plaintiff/appellant filed suit for possession. The trial Court vide judgment and decree dated 23.08.2011, dismissed the suit.

2. Aggrieved against the findings of trial Court, the plaintiff/appellant filed an appeal which was dismissed by the learned Appellate Court, vide judgment and decree, dated 04.03.2013.

3. The Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the

oral as well as documentary evidence on record, hence, the instant appeal at the behest of the plaintiff/appellant.

4. The only argument raised by learned counsel for the appellant is that the earlier suit filed by the plaintiff/appellant was dismissed in default and no findings had been recorded on merits, thus, the same will not be hit by principle of res judicata.

5. Heard.

6. The appellant had earlier filed a suit for declaration with regard to the land in question titled Jagat Singh Vs. Teja Singh and others (Civil Suit No.855 dated 22.08.1989) to the effect that the sale deed dated 27.02.1989 executed by Teja Singh, defendant No.1 in favour of defendant No.2 Jasbir Singh and mutation No.11740 of the land measuring 3 marlas along with construction and hand pump out of the land measuring 12 marlas with respect to the land comprised in khasra No.388/1, situated in village Khawaspur, Tehsil and District Hoshiarpur. The same was dismissed in default on 14.02.1992. An application to revive the same was moved on 11.03.1992, however it was again dismissed in default on 10.06.1993. The plaintiff again filed an application for restoration of the suit on 21.10.1993 which was contested and ultimately dismissed on

21.01.1994. The revision against the order dated 21.01.1994 was also dismissed, vide order dated 30.05.1995. Against the order passed in revision, the plaintiff preferred revision petition before this Court which was also dismissed, by way of order dated 08.08.2000. Perusal of the record reveals that except the title of the suit, the substantial question for determination remain the same. That being the position, essentially it touches core issue, therefore, it will certainly be hit by the principle of *res judicata* and will not be maintainable. The appellant has relied upon **Fakir Mohammed Vs. Ajaj Ali & Ors.**, 2002(4) RCR (Civil) 225 but the ratio of the reported case does not apply to the facts of the instant case. Thus, there is no illegality or perversity in the judgments passed by the Courts below. No substantial question of law arises for consideration. Hence, no inference is called for.

Dismissed.

23.02.2016

sumit.k

(JITENDRA CHAUHAN)
JUDGE