

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

RSA-2631 of 2013 (O&M)

Date of decision: 25.02.2016

Deepak

...Appellant

Versus

Satpal Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. M.S. Rana, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

CM-6953-C-2013

Keeping in view the averments made in the application, the same is allowed. The delay of 14 days in filing the present appeal is hereby condoned.

Main Case

The plaintiff/appellant has filed the present appeal against the judgment of both the Courts below, whereby the suit of the plaintiff was dismissed.

2. The father of the appellant Rai Singh suffered a

consent decree in favour of respondents No.2 to 5 on 31.05.1993. It was asserted that the said consent decree was result of fraud played by defendants No.2 to 5 in the Appellate Court upon defendant No.1-Rai Sigh, the father of the appellant. The appellant along with his mother preferred a similar suit against defendants No.1 to 5, which was dismissed in default, vide order dated 31.05.1994, Ex.D3. The application for restoration of the suit was also dismissed in default, vide order dated 10.09.1994, Ex.D4.

3. The only argument raised by learned counsel for the appellant is that at the time of consent decree suffered by the father of the appellant, Rai Singh, the appellant was minor and the same has no binding upon the rights of the appellant. No other point has been raised.

4. Heard.

5. It is to be seen that a comprehensive suit was preferred by the mother of the appellant for and on behalf of guardian. The same was dismissed in default. The application for revival of the suit was also dismissed in default. The order passed was not assailed, therefore, this Court feels that the Courts below have rightly held that the suit is not maintainable

in view of Rule 9 Order 9 of the Code of Civil Procedure, which has otherwise attained finality. The suit is pertaining to the same property and essentially is the same as reflected in the earlier suit, therefore, no fault can be found in the findings recorded by the Courts below. Though there is a delay of 14 days, however, this Court has perused the entire record and there seems to be no illegality or perversity in the judgments passed by the Courts below. Hence, no inference is called for.

Dismissed.

25.02.2016

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(JITENDRA CHAUHAN)
JUDGE