

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

**RSA No.1757 of 2012 (O&M)
Date of decision : 24.08.2017**

Mahabir

..... Appellant

versus

Parhlad Rai and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Ms. Sarika Gupta, Advocate for
Mr. Rajeev Godara, Advocate
for the appellant.

Mr. Rajesh Sethi, Advocate
for respondent No.1.

Mr. Arun Biriwal, Advocate
for respondent No.2.

AJAY TEWARI, J.(ORAL)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit of the appellant.

The appellant and the proforma respondent had claimed possession of land measuring 3-3/4 marlas situated in village Dhukra, District Sirsa on the ground that their brother was earlier the owner of the land and after his death they had succeeded thereto and have further pleaded that the respondent No.1 had occupied the land illegally.

The case of respondent No.1 on the other hand was that he had earlier filed a civil suit against the appellant and the proforma respondent wherein the Court had held that he had got his title by way of adverse possession and the appellant and proforma respondent were restrained to

interfere into the possession of the respondent No.1 except in due course of law and that decree had become final. Thereafter the appellant filed a suit during the pendency of which the parties arrived at a compromise. As per the said compromise the respondent No.1 had become owner of 3-3/4 marlas land out of 5 marlas and remaining 1-1/4 marlas land was relinquished in favour of the appellants and they had agreed to relinquish their claim over the remaining land i.e.3-3/4 marlas and that compromise was reduced into writing and as per the same the appellant was supposed to withdraw the suit but he and the proforma respondent got it dismissed as withdrawn. Both the Courts held that once the first suit was decided as per the compromise and once the appellants had been put into possession of 1-1/4 marlas of land the present suit would be barred under Order 9 Rule 9 CPC because once the appellant and the proforma respondent had taken the benefit of the compromise they could not then turn round and claim that portion which they had agreed to relinquish under that very compromise.

Learned counsel for the appellant has not been able to show how these findings are wrong.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

24.08.2017
pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No