

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Regular Second Appeal No.1728 of 2014 (O&M)
Date of Decision:- 07.07.2017

Shilpi Bhayana and others

Appellants

Versus

Gopal Krishan Sood (since deceased) represented by his LRs
and others

..Respondents

Regular Second Appeal No. 4695 of 2014(O&M)

Shilpi Bhayana and others

..Appellants

versus

Gopal Krishan Sood (since deceased) represented by his LRs
and others

..Respondents

AND

Regular Second Appeal No.4696 of 2014(O&M)

Shilpi Bhayana and others

..Appellants

versus

Gopal Krishna Sood (since deceased) represented by his LRs
and others

..Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. G.S.Bhatia, Advocate, for the appellants
(in RSA No.1728 of 2014).

Mr. Aman Pal, Advocate,
for the appellants (in RSA Nos.4695 & 4696 of 2014)

Mr. S.D.Sharma, Senior Advocate
with Mr. Ved Priya Malik, Advocate
for the respondents.

RAMENDRA JAIN, J.

CM No.8276-C of 2017 in RSA No.1728 of 2014

Application is allowed.

Documents memorandum of family settlement and affidavits as Annexures A-1 and A-2 Colly are permitted to be placed on record subject to all just exceptions.

CM No.8389-C of 2017 in RSA No.1728 of 2014

The instant application under order 22 Rule 4, Civil Procedure Code, duly supported by an affidavit and copy of death certificate has been filed to bring on record legal heirs of respondent no.1, namely, late Gopal Krishan Sood who expired on 12.5.2017. His legal heirs, mentioned in para 3 of the application, are brought on record subject to all just exceptions.

The application is, accordingly disposed of. The amended memo of parties is taken on record. The same be tagged at the appropriate place.

CM No.8432-C of 2017 in RSA No.1728 of 2014

The appellants, by way of instant application under order 23 rule 3, read with section 151, Civil Procedure Code, have prayed to dispose of the appeals in terms of compromise dated 19.6.2017 (Annexure 'A'). It is averred that the parties are related to each other. There is a dispute in between them qua the ancestral property. During the pendency of the present appeal, with the intervention of the respectables and relatives, both the parties have entered into a written compromise. The said compromise may be treated as a final settlement in between them and the same may be made part and parcel of the final decree.

Heard.

In view of the compromise in between the parties, which would

bring harmony in their relation, it is ordered that the compromise dated 19.6.2017, Annexure A-1, shall be made part and parcel of the final judgment and decree passed by this court.

The application stands disposed of accordingly.

RSA No.1728 of 2014

This order shall dispose of three Regular Second Appeals bearing Nos. 1728, 4695 and 4696 of 2014 arising out of a common judgments and decrees passed by both the learned courts below.

In nutshell, one Kailash Wati widow of Piara Lal Sood resident of Malerkotla was owner in possession of 2/7th share in land measuring 09Bighas- 01Biswa, fully detailed in head note of the plaint of Civil suit no.7 dated 8.1.2005 titled as **Padam Krishan Sood and others** versus **Gopal Krishan Sood and others**. She died on 16.1.1993. Resultantly, after her death, one of her sons, namely, Gopal Krishan Sood got entered and sanctioned mutation no.3243 of her inheritance in his favour on the basis of will dated 23.12.1991, allegedly, executed by Kailash Wati. Having grouse, another son of deceased Kailash Wati, namely, Padam Krishan Sood brought a Civil Suit No.7 dated 8.1.2005 titled as **Padam Krishan Sood and others** versus **Gopal Krishan Sood and others** for declaration and permanent injunction against his brother and sisters, namely, Gopal Krishan Sood and Smt. Surinder Mahindra, respectively, besides, widow and children of another deceased brother, namely, Bal Kishan claiming himself to be the owner in possession of the suit property on the basis of some will dated 10.1.1993, allegedly, executed in his favour by his mother Smt. Kailash Wati.

Immediately, after two days, Gopal Krishan Sood also, filed

Civil Suit no.12 dated 10.1.2005 for declaration and partition against Padam Krishan Sood, taking the plea that the suit property was under joint ownership in between them.

Thereafter, after four months, Shilpi Bhayana, daughter of Padam Krishan Sood, impleading all the legal heirs, filed Suit no.139 dated 3.5.2008 against her uncle Gopal Krishan Sood and others for declaration and permanent injunction on the basis of will dated 10.1.1993, allegedly, executed by Kailash Wati in favour of her father Padam Krishan Sood regarding movable and immovable properties left by Kailash Wati, including two shops describing their boundaries in the hand note of the plaintiff. Thereafter, fourth suit no.333 dated 03.11.2008 for possession, recovery and permanent injunction was filed by Gopal Krishan Sood, impleading all the legal heirs of Kailash Wati.

The above four suits were disposed of by a common judgment and decree dated 9.2.2012, whereby Civil Suit No.7 dated 08.01.2005 and Civil Suit No.139 dated 3.5.2008 titled as Shilpi Bhayana versus Gopal Krishan Sood and others were dismissed with costs, whereas Civil Suit No.12 dated 10.1.2005 was dismissed as withdrawn. Civil Suit no.333 dated 3.11.2008 titled Gopal Krishan Sood versus Shilpi Bhayana and others was decreed with costs declaring will dated 23.12.1991 in favour of Gopal Krishan Sood as perfectly legal and valid.

Being dissatisfied, both the sides filed their respective appeals before the District Judge, Sangrur, which were disposed of by a common judgment and decree dated 4.12.2013. Still dissatisfied, the instant three appeals, bearing RSA No.1728 of 2014 “ Shilpi Bhayana and others versus Gopal Krishan Sood (since deceased) represented by his LRs and others;

RSA No.4695 of 2014 titled "Shilpi Bhayana and others versus Gopal Krishan Sood (since deceased) represented by his LRs and others and RSA No.4696 of 2014 titled "Shilpi Bhayana and others versus Gopal Krishan Sood (since deceased) represented by his LRs and others are being filed before this court.

During the pendency of these appeals, the parties have arrived at a compromise vide memorandum of family settlement, Ex. P1. Their joint statements have also been recorded separately along with their respective counsel, duly signed by them, wherein they have stated that all their disputes have been settled amicably with their own sweet will and consent, without any pressure, coercion or undue influence to bring harmony between them.

In view of the compromise arrived at between the parties, all these three appeals bearing nos. 1728, 4695 and 4696 of 2014 are hereby disposed of in terms of memorandum of family settlement dated 19.6.2017 Ex.P1. The memorandum of family settlement, Ex.P1 and site plan Ex.P2 shall form part of the decree sheet . Decree sheet be prepared accordingly.

07.07.2017
VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether reasoned/speaking | Yes/No |
| 2. | Whether Reportable | Yes/No |