

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.5852 of 2016 (O&M)
Date of Order:15th December,2017

Neha Chawla and another

...Appellants

Versus

Virender Chawla and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.D.Khan, Advocate,
for the appellants.

Mr. Ajay Jain, Advocate,
for respondents no.1 and 2.

ANIL KSHETARPAL, J.

Plaintiffs-appellants are in regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiffs filed a suit for declaration claiming that plaintiffs are absolute occupiers of Bunglow No.109, Mall Road, Ambala Cantt and entitled to all deposits of late Shri Surender Chawla to the exclusion of the defendants and further for declaration that plaintiffs and defendants be declared joint owners in possession of 3 storeyed residential house No.676 situated at Rambagh Road, Ambala Cantt and for permanent prohibitory injunction restraining the defendants from alienating the suit property.

Defendants on the other hand, contested the suit and pleaded that the plaintiff no.1 was having strained relationship with late Shri Surender Chawla and divorce proceedings were also pending. It was further pleaded that late Shri Surender Chawla had entered into a family settlement,

which was later on reduced into writing as a memorandum of family settlement on 04.06.2010, wherein dispute between all the family members were settled and accordingly the properties distributed as per oral family settlement were acknowledged. It was further submitted that late Sh. Surender Chawla also executed a Will in favour of the plaintiffs.

Both the Courts after appreciating the evidence available on the file dismissed the suit filed by the plaintiffs.

Learned counsel for the appellants has submitted that the plaintiffs have now challenged the family settlement and the Will executed by late Sh. Surender Chawla.

In the considered opinion of this Court, once the plaintiffs have not chosen to challenge the memorandum of family settlement arrived at between the parties in this suit, which is duly signed by late Sh. Surender Chawla, the plaintiff has no locus to maintain this suit. It is not disputed that plaintiff no.1 was having strained relationship with late Sh. Surender Chawla. It is further not disputed that divorce proceedings were pending between the husband and the wife. The family members had resolved their disputes and distributed the properties amongst themselves. Thereafter, the aforesaid family settlement was reduced into writing in the form of memorandum, which has been exhibited on the file as Ex.D1. Plaintiffs did not challenge the validity of the aforesaid family settlement. A careful reading of the memorandum of family settlement would show that property in dispute in the present case had not fallen to the share of late sh. Surender Chawla.

In view of the above, there is no scope for interference in the concurrent findings of fact arrived at by the Courts below.

The regular second appeal is dismissed.

15th December, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO