

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

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RSA No.1832 of 2014 (O & M)
Date of Decision:15.11.2017

Surinder Singh

...Appellant

Versus

Ranjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Suvir Sidhu, Advocate
for the appellant.

Mr. Vikas Bahl, Senior Advocate with
Ms. Priyanka Kansal, Advocate and
Mr. Rohan Jain, Advocate
for respondent No.1.

Mr. Sunil Chadha, Senior Advocate with
Mr. Chetan Bansal, Advocate
for respondent Nos.4 and 5.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-appellant is in regular second appeal against the judgment passed by the learned First Appellate Court.

Dispute is between the family members, whose common ancestor was one Mehanga Singh, whose wife is Amar Kaur. He had two sons namely Surinder Singh and Ranjit Singh. Surinder Singh has two sons, one Bhupender Singh and second Surjit Singh, whereas the other son of Mehanga Singh i.e. Ranjit Singh has two sons namely Sukwinder Singh and Buta Singh. Wives of two brothers namely Surinder Singh and Ranjit Singh are Gurdev Kaur and Gurbax Kaur.

Plaintiff has filed a suit challenging a civil Court decree passed by the Court in the civil suit titled as “**Surjit Singh and others vs. Surinder**

Singh and others” dated 22.11.1997. The aforesaid civil Court decree was passed under Order 12 Rule 6 CPC, which is known as a 'consent decree'. Aforesaid decree was passed acknowledging a family settlement arrived at between the parties on 13.04.1991. Plaintiff has challenged the aforesaid decree on the ground that a fraud had been played upon him.

By the aforesaid decree, total property of the family was acknowledged to have fallen into the shares of Surjit Singh son of Surinder Singh (plaintiff), Sukhwinder Singh and Buta Singh sons of Ranjit Singh. It has been proved on the file that Surinder Singh had executed a Special Power Attorney in favour of Gaja Nand on 01.01.1997. The special power of attorney was executed specially for suffering a consent decree. It is the allegation of Surinder Singh that he left India on 09.01.1997.

Plaintiff (Surinder Singh) filed the suit on 03.10.2001. In the previous suit filed by Surjit Singh, Sukhwinder Singh and Buta Singh, statements of Malkiat Singh, Gurbax Kaur, Surjit Singh, Ranjit Singh, Amar Kaur and Gaja Nand were recorded. Everyone who appeared before the Court, admitted the claim made in the suit. Pursuant thereto a decree was passed under Order 12 Rule 6 CPC. Shri H.C. Sharma, Advocate appeared for Surinder Singh, Ranjit Singh and Amar Kaur and Power of Attorney in favour of Advocate was signed by Surinder Singh himself.

Learned counsel for the appellant has submitted that the written statement filed in the Court is not signed by Surinder Singh or his attorney. He submits that, Gaja Nand appeared in the Court suddenly without having been summoned.

It is a case of family settlement. It is not in dispute that other

grand-father and land measuring 115 kanals was acknowledged to have been transferred vide consent decree dated 10.10.1996 (DW-3/2). In that proceedings also Shri H.C. Sharma, Advocate was representing the plaintiff.

It is well settled that fraud has to be pleaded and proved. Here is a case where parties, who are family members have resolved their dispute in a family gathering. They had entered into a family settlement, which of course was oral but later on acknowledged in the civil suit resulting into a decree passed by the Court.

It is well settled that such consent decrees, which are passed under Order 12 Rule 6 CPC on the basis of a previous family settlement between the family members is not required to be registered. There has been series of judgments on this issue right starting from ***AIR 1955 SC 480 Sahu Madho Dass vs. Mukand Ram.***

It is needless to say that the Courts in India always lean in favour of upholding a family settlement arrived at between the family members.

Hence, this regular second appeal is dismissed.

15.11.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes
Whether Reportable : No