

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

**RSA No.5083 of 2017 (O&M)  
Date of Decision: 06.11.2017**

Bhalle Ram

... Appellant

Versus

Jaswant and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. S. S. Kamboj, Advocate,  
for the appellant.

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**RAJIV NARAIN RAINA, J.(Oral)**

1. A categorical finding has come in two Courts upon extensive evidence including reports of Handwriting and Finger Print Experts that the judgment passed in Civil Suit No.242 of 1992 Ex.P-6 filed by the defendant-appellant and the decree sheet Ex.P-7 was a result of fraud played by the appellant [who was plaintiff in that suit] on the right and title of the two plaintiffs in the present case and, therefore, the decree obtained in the old suit is a nullity and non est in the eyes of law pleaded in the present suit. The Court below has arrived at a finding of fact that in the earlier civil suit the decree was obtained by impersonation and in case such a finding was reached by the Court, the present appellant had argued that the decree should be declared non est qua the share of Karambir which alone should be set aside. Even this argument did not find favour of the Lower Appellate Court who has held, affirming the finding of the trial Court, that the

judgment and decree of 1992 obtained by the appellant was a product of fraud. If an imposter appears for the true owner who is alleged to be parting away his rights to property, the entire exercise would be a nullity and has to go his whole. Even strong suspicion coming from surrounding circumstances creating doubts on the bona fides of the litigation is enough stock to non-suit the defendant of his illgotten fruits of the decree procured in the year 1992.

2. Findings of fact recorded by the Courts after reading the pleadings and appreciating the evidence produced by the parties on record is not open to meddlesome interference in second appeal only to substitute opinion on the same material. Even errors of fact which do not give rise to a substantial question of law or at least a question of law under Section 41 of the Punjab Courts Act, 1918 would not warrant interference on the second appeal side of this Court. Findings here are not perverse, illegal or irrational.

3. Thumb impressions matching or not matching of either the left or right thumb as argued by the learned counsel in his favour to make a dent in the judgment would not persuade me to the contrary view than the one taken by the Courts below on facts. As I said earlier, grave suspicion is enough when the plaintiff in the earlier suit who is the appellant in this case did not have a right to natural succession by inheritance in the suit property. The earlier suit was based on an oral family settlement. If that was so then new rights were being created in favour of the plaintiff and, therefore, the settlement or arrangement would have required compulsory registration and payment of stamp duty to Government before title was conveyed. The

decree would be registrable.

4. I would, for the reasons abridged in this order and fleshed out in the judgments of the Courts *a quo*, on the length of the case, not consider any interference in second appeal in the instant case and the same is hereby dismissed.

(RAJIV NARAIN RAINA)  
JUDGE

06.11.2017  
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*Whether speaking/reasoned*                      *Yes*

*Whether reportable*                              *No*