

**201**

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

**RA-RS-10-C-2015 (O&M) in  
RSA-637-1986  
Date of decision : 12.07.2017**

Joginder Kaur (deceased through LRs) and another

... Applicant(s)

Versus

Harnek Singh and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. J.K. Sibbal, Senior Advocate with  
Mr. Sapan Dhir, Advocate  
for the review applicants/appellants.

Mr. Surinder Garg, Advocate  
for respondent No.1.

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**AMIT RAWAL, J. (ORAL)**

**CM-1750-C-2015**

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the delay of 27 days in filing the review application is condoned.

**RA-RS-10-C-2015**

The review application has been preferred on behalf of the applicants/appellants on the ground that during the pendency of the aforementioned Regular Second Appeal arising out of a suit filed by the respondent(s)/plaintiff(s) seeking declaration of ownership of a land measuring 15 kanals 10 marlas, by virtue of a registered sale deed bearing No.7150 dated 06.03.1980, a compromise had been arrived at between the

erstwhile owner, namely, Govind Singh-vendor of the respondent(s)/ plaintiff(s) with the review applicants/appellants-defendants, in a suit filed by Govind Singh seeking possession of 20 kanals 0 marla and symbolic possession of 15 kanals 10 marlas, which was carried to this Court vide RSA No.586 of 1977 and this aforementioned aspect while adjudicating the RSA has not been looked into, despite the fact that the aforementioned compromise has been proved on record as Ex.D-6.

Mr. J.K. Sibbal, learned Senior Counsel assisted by Mr. Sapan Dhir, learned counsel appearing on behalf of the review applicants/appellants-defendants submits that non-reference to an admitted document itself is a perversity and would be a sufficient ground for bringing the case within the ambit of "error apparent on record", therefore, the order dated 23.12.2014 is required to be recalled.

He further submits that in a suit filed by Govind Singh seeking actual possession of land measuring 20 kanals 0 marals and symbolic possession of 15 kanals 10 marals, was decreed by the Sub-Judge 2<sup>nd</sup> Class, Barnala, vide judgment and decree dated 12.01.1976 and affirmed in an appeal by the lower Appellate Court, vide judgment and decree dated 19.11.1976. Two Regular Second Appeals bearing RSA Nos.2089 of 1976 and 586 of 1977 were decided by this Court on the basis of the Compromise dated 05.02.1981 (Ex.D-6), in essence, by virtue of the compromise, Govind Singh had relinquished/transferred all the rights in the aforementioned property i.e. 35 kanals 10 marals in favour of Joginder Kaur and therefore, Govind Singh did not have any right, title and interest in the property, which could not have been passed on to the subsequent vendee, namely, Harnek

Singh-respondent No.1/plaintiff and therefore, suit for possession granting the decree of declaration was liable to be dismissed and the factum of not bringing on record the Compromise as noticed by this Court is an error apparent of record.

On the contrary, Mr. Surinder Garg, learned counsel appearing on behalf of non-applicant/respondent No.1-plaintiff submits that the sale deed executed by Govind Singh in favour of his client-respondent(s)/plaintiff(s) is dated 06.03.1980, which is a registered document and therefore, Govind Singh did not have any right, title and interest in the property to enter into an alleged Compromise dated 05.02.1981. Even on going through the Ex.D-6, it is not a Compromise, but an affidavit suffered by Govind Singh, which would not be given a colour of Compromise. Even a decree would not confer the right upon the review applicants/appellants, in the absence of the registration of the same, thus, urges this Court for dismissal of the review application.

I have heard the learned counsel for the parties and appraised the paper book.

This Court while dealing with all the contentions had confirmed the findings rendered by both the Courts below, decreeing the suit of the respondent(s)/plaintiffs, seeking declaration and as well as the possession. The fact of the matter is that even if, I accept the plea of Mr. Sibbal, with regard to the conferring of right in favour of his clients, but the fact remains that the sale deed dated 06.03.1980 (Ex.P-2), has not been challenged, either in a counter-claim or by a separate suit and the alleged Compromise, is not a Compromise, but an affidavit suffered by

Govind Singh is dated 05.02.1981, thus, for all intents and purposes, he did not have any right and title or interest in the property alleged to have conferred upon the review applicants, thus, the plea of the review applicants/appellants seeking review of the order, under challenge, is wholly misplaced and unwarranted.

For the foregoing reasons, I do not find any illegality and perversity, much less, error apparent on record in the order dated 23.12.2014.

No ground is made out for interference.

Resultantly, the review application is dismissed.

12.07.2017  
Yogesh Sharma

( AMIT RAWAL)  
JUDGE

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Whether speaking/reasoned    Yes/ No

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Whether Reportable            Yes/ No