

**CM No. 10824-C-2017 in/and
RA-RS-76-C of 2017 in
RSA No. 2575 of 2013**

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

**CM No. 10824-C-2017 in/and
RA-RS-76-C of 2017 in
RSA No. 2575 of 2013
Date of Decision: 07.09.2017**

Gurdev Kaur and another

.....Appellants

Vs.

Daljit Singh Dhingra and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Samrath Raj Mehra, Advocate,
for the applicants-appellants.

AMOL RATTAN SINGH, J. (ORAL)

By this review application, the applicants-appellants seek that the judgment of this Court dated 03.07.2017, be reviewed and recalled, on the ground that a fraud has been played by the decree holder, Daljit Singh Dhingra, inasmuch as, plaintiff no. 2, Ram Krishan, held the suit property as a 'Benamidar' for a short while, which was a fact not disclosed by the plaintiffs in the suit filed by them and as such, there was a violation of Section 4 of the Benami Transactions (Prohibition) Act, 1988, and consequently, the provisions of Order 6 Rule 3 of the Code of Civil Procedure were also deliberately violated and therefore, a fraud having been played, firstly, this Court would have inherent jurisdiction to entertain this review application and recall its order, as also for the reason that such fraud having been played, jurisdiction of the Civil Court itself was barred (as contended).

Upon specific query to learned counsel for the applicants-appellants as to whether at any stage the issue of the property having been held '*Benami*' by plaintiff no. 2 was raised, he has very fairly stated that it was never raised but since a fraud has been played, it can be brought to the notice of the Court even at this stage.

He has also referred to various judgment of the Supreme Court and of co-ordinate Benches of this Court, to submit that interference by this Court on account of a fraud having been played, is an inherent jurisdiction, and as per learned counsel, can be invoked even at the stage of a review application.

Having heard learned counsel for the applicants-appellants, upon repeated query as to whether, even in the Regular Second Appeal, any such or other plea that had been raised or made, has not been dealt with by this Court, his answer is to the effect that nothing could be pointed out from the judgment, which could be said to be an error patent on the face of the record.

Consequently, the grounds for review of a judgment being very limited, to the extent that the Court would entertain a review application only if it finds an error committed, patent on the face of the record, I find no reason to entertain this application, (which has obviously been filed at a stage when execution proceedings are in process), the issues now being raised never ever having been raised.

Consequently, the application is dismissed.

September 07, 2017
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes

Nitin
2017.09.14 16:39
I attest to the accuracy and
integrity of this document