

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

RSA No.2467 of 1980 (O&M)

Date of decision : 17.01.2018

Ratni and others

...Appellants

Versus

Gugan Ram and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajvir Singh Sihag, Advocate for the appellants.

Mr. Manvinder Singh Dalal, Advocate for respondent No.1.

Mr. Harkesh Manuja, Advocate for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

CM No.1938-C of 2014

Dismissed, as not pressed.

Main Case

The plaintiffs-appellants are in the Regular Second Appeal against the finding of fact arrived at by the learned First Appellate Court.

The plaintiff-Late Sh. Ramji had filed a suit for declaration challenging the Civil Court decree suffered by Rulia, his brother on 12.12.1975 in favour of the defendants.

Learned First Appellate Court after appreciation of the evidence and after noticing the statement of Ratni, legal heir of the plaintiff has recorded a finding of fact that the defendants are grandsons of Late Sh. Rulia. This Court has carefully read the statement of Smt. Ratni who has stated that late Sh. Rulia and Zihro were living as husband and wife for the

15-16 years. It is further admitted by her that the plaintiff-Ramji Lal used to stop late Sh. Rulia from living with Zihro but he did not agree and continued to live with Zihro.

Ramji Lal challenged the decree on the ground that the decree requires registration. The Learned First Appellate Court found that since the defendants are sons of daughter of Zihro, therefore, they will fall within the definition of the family members as held by the Hon'ble Supreme Court in *AIR 1971 SC 1041, Krishna Beharilal (dead) by his legal representatives Vs. Gulabchand and others*. In para No.8 of the judgment, it was held as under:-

*“8. The next question that we have to consider is whether the compromise in question can be considered as a settlement of family disputes. It may be noted that Lakshmichand and Ganeshilal who alongwith Pattobai were the principal parties to the compromise were the grandchildren of Parvati who was the aunt of Bulakichand. The parties to the earlier suit were near relations. The dispute between the parties was in respect of a certain property which was originally owned by their common ancestor namely Chhedilal. To consider a settlement as a family arrangement, it is not necessary that the parties to the compromise should all belong to one family. As observed by this Court in **Ram Charan Das v. Girija Nandini Devi, (1965) 3 SCR 841 at pp. 850 and 851**, the word "family" in the context of a family arrangement is not to be understood in a narrow sense of being a group of persons who are recognised in law as having a right of succession or having a claim to a share in the property in dispute. If the dispute which is settled is one between near relations then the settlement of such a dispute can be considered as a family*

arrangement-see Ramcharan Das's case (supra)."

I have heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by both the Courts below and the record.

Learned counsel for the appellants has submitted that since the Zihro was not married with Rulia and the relationship between them were illegal, therefore, the defendants are not the members of the family. As noticed earlier, the statement of Ratni who is one of the legal heir, defeat the argument of the learned counsel for the appellants.

Learned counsel for the appellants has further submitted that Rulia died within one year from the date of suffering of the decree, therefore, Civil Court decree is suspicious.

In the considered opinion of this Court, Civil Court decree cannot be set aside on the basis of the suspicion only. No evidence has been brought on record that Rulia was not in senses or he did not voluntarily suffer the decree.

In view thereof, there is no scope for interference in the judgment passed by the First Appellate Court.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications are disposed of, in view of the abovesaid judgment.

17.01.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No