

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

RSA No.66 of 1988 (O&M)
Date of decision : 28.02.2018

Harnek Singh

...Appellant

Versus

Jal Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harpal Singh Sirohi, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Since, the counsel representing the respondent had been elevated to the Bench, hence, this Court had issued fresh notice to the respondent.

As per the Office report, service is complete. However, no one has come present on behalf of the respondent to contest the appeal. Hence, this Court is left with no choice but to proceed to decide the appeal.

Defendant-appellant is in the Regular Second Appeal against the judgment passed by the learned First Appellate Court reversing the judgment and decree passed by the trial Court.

The plaintiffs namely Jal Kaur daughter of Rattan Kaur and Rattan Kaur herself, filed a suit for joint possession. She also challenged the civil court decree passed by the Court in Civil Suit No.31 of 21.01.1981 decided on 10.02.1982. The suit was filed after a period of almost 3 years

i.e. 29.01.1985.

Learned trial Court after appreciating the evidence available on the file, dismissed the suit filed by the plaintiffs. It may be significant to note here that the previous suit i.e. Civil Suit No.31 was filed by Harnek Singh against his maternal grandmother claiming that in a family settlement, she had given him 1/5th share of the property owned by her. Rattan Kaur was owner of 1/4th share of the agricultural land measuring 446 kanals and 6 marlas. Thus, the plaintiff was given in a family settlement, the land measuring 11 ½ acres. Harnek Singh, as noticed earlier, filed a suit against Rattan Kaur. The aforesaid suit was decreed as Rattan Kaur filed a written statement admitting the claim of Harnek Singh. The judgment and decree was passed on 10.02.1982.

Both the Courts have concurrently found that the plaintiffs have failed to prove that the decree was result of fraud, misrepresentation or undue influence. Learned First Appellate Court has reversed the judgment of the learned trial Court only on the ground that such decree is against the public policy and required compulsory registration.

The question of law which needs determination reads thus:-

- A) Whether a consent decree acknowledging a prior family settlement is required to be registered before it can be said to be enforceable?

This issue has already been decided by this Court in detail in the case reported as 2017(4) PLR 729, titled as *Dhian Singh and others Vs. Mohinder Singh and others*. This Court has already held that between the family members, if the decree passed is acknowledging a family settlement arrived at between the parties, such decree would not be required to be

registered. This is the only reason given by the Court to reverse the finding of the learned trial Court.

For the reasons recorded above, the judgment passed by the learned First Appellate Court is set aside and that of the trial Court is restored.

In view of the above, the present Regular Second Appeal is allowed.

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

28.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No