

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

RSA No.3529 of 1997 (O&M)

Date of decision : 16.03.2018

Maluk Chand

...Appellant

Versus

Udho Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Neha Jain, Advocate for
Mr. K.S. Dadwal, Advocate for the appellant.

Ms. Harveen Kaur, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

CM No.6138-C of 1997

For the reasons stated in the application, which is duly supported by an affidavit, delay of 16 days in filing the appeal is condoned.

Application is allowed.

Main Case

The plaintiff-appellant is in the Regular Second Appeal against the judgment passed by the First Appellate Court.

The plaintiff had filed a suit for possession of house and land measuring 10 marlas claiming that his father namely Late Rulda Ram was owner who has died in the year 1969 and, therefore, the house has devolved upon the plaintiff and defendant Nos.3, 4 and 5 and Chanan Ram. Late Sh.

Chanan Ram had also died and defendant Nos.6 to 9 are his sons. He has further pleaded that in a family partition, the house had fallen to the share of the plaintiff in the year 1970 and he had constructed one room and a kitchen in the year 1971. It is further the case of the plaintiff that taking the benefit of his absence, defendant No.1 with the help of defendant No.2 had forcibly occupied the house.

Defendant Nos.1 and 2 contested the suit and pleaded that the property belonged to them and the suit filed by the plaintiff is false.

Learned trial Court decreed the suit whereas the learned First Appellate Court after appreciating the evidence available on the file, accepted the appeal while reversing the judgment of the trial Court and ordered dismissal of the suit.

Learned First Appellate Court has relied upon a deed of settlement (compromise deed) Ex.D1 on the file. Ex. D1 is a document which is thumb-marked by the plaintiff and his brother Parkash Ram, who was defendant No.3 in the suit. In order to prove the aforesaid compromise/settlement, the defendant examined Joginder Singh as DW1, Bhagat Ram as DW2 and Avtar Singh as DW3. Since the plaintiff has disputed his thumb impression, defendant also examined Sardara Singh Parmar as DW4 as Document and Finger Print Expert. Apart from it, attorney of defendant appeared in the evidence. On re-appreciation of the evidence, the Court found that the execution of the settlement deed Ex.D1 is proved on the file and through that settlement, dispute between the parties was resolved in the presence of various members of the Panchayat.

Learned counsel for the appellant has vehemently submitted

that this compromise was arrived at in the Police Station and, therefore, it must be assumed that it was under the police pressure.

No doubt, the plaintiff made a complaint to the Local Police and Administration, but no evidence has been produced on file to prove that such compromise arrived at between the parties, which is thumb-marked by the plaintiff and his two brothers also, was result of any coercion or misrepresentation. The settlement was arrived at in the presence of Sarpanch of the Village who has appeared and supported the case of the defendant. The various other respectable members were also present when the settlement was arrived at.

In view thereof, this Court does not find any good ground to interfere with the finding of fact arrived at by the First Appellate Court.

Regular Second Appeal is dismissed.

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

16.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No