

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

**RSA No.3105 of 2011 (O&M)
Date of Order: 06.09.2018**

Smt. Jagmati

..Appellant

Versus

Dharambir and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parveen Sharma, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the judgment passed by the learned first appellate court, dismissing the suit filed by the plaintiff while challenging decree suffered by Hazari, their common ancestor in favour of his 3 sons, who were alive, dated 09.04.1985.

Learned first appellate court has found that the plaintiff has failed to lead any evidence that the property in dispute in the hands of Hazari was ancestral.

Learned counsel for the appellant does not challenge this finding. However, he submitted that since the property in the hands of Hazari was self acquired, therefore, defendants have no pre-existing rights. In a Joint Hindu Family, distribution of the property through family settlement is a well established norm. In the present case, after the death of Ranbir Singh, the 4th son, father of the plaintiff-appellant Hazari entered into a family settlement and the aforesaid family settlement was duly acknowledged by Hazari in the court resulting into decree dated

09.04.1985.

This court has already examine the scope of family settlement with regard to self acquired properties and after discussing the judgments which were cited before the Court, this Court has held that such decree acknowledging a family settlement does not require registration. Reference in this regard can be made to a judgment passed by this court in the case of *Dhian Singh and others v. Mohinder Singh and others, 2017 (3) PLR 729.*

Still further, the present suit was filed by the plaintiff after a period of 19 years. The suit for declaration challenging the decree cannot be filed after 19 years. The limitation to challenge the decree is only 3 years. It is not disputed that pursuant to the decree dated 09.04.1985, land was transferred in the revenue record in favour of the defendants.

Still further Hazari after suffering the decree remained alive for sufficient time but he never challenged the decree. Plaintiff who is daughter of pre-deceased son of Hazari filed a suit after she had been married. It is apparent that the present suit was filed out of greed only.

Hence, there is no good ground to interfere with the findings of fact arrived at by the learned first appellate court.

The regular second appeal is dismissed.

September 06, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No