

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

RSA No.2143 of 2013 (O&M)

Date of Decision:25.09.2018

Anil Kumar and others

...Appellants

Versus

Ram Chander and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Dinesh Ghai, Advocate for the appellant.
Mr.Diwan S.Adlakha, Advocate for respondent No.1.
Mr.Rakesh Gupta, Advocate for respondents No.2 and 3.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

The plaintiffs through the present suit had challenged the decree dated 10.4.1992 suffered by their father and also the sale-deed executed by their brother defendant No.1 in favour of defendants No.2 and 3. The plaintiffs claimed that the property is a joint hindu family ancestral property and therefore, the plaintiffs are entitled to 1/3rd share in the property.

The defendants contested the suit and pleaded that there was a family settlement in the year 1973 and the plaintiffs had separated from the house.

Learned counsel for the respondents has read over the statement of one of the plaintiff wherein he has admitted that they separated during the life time of their father and are residing in a separate house.

In view of the categoric admission of the plaintiffs, the

entire foundation on which the case was filed, ceases to exist. Although, learned counsel for the appellant made sincere attempt, however, could not draw attention of the court to any perversity or substantive misreading or non-reading of evidence by the courts below. The courts have correctly found that the decree passed in the year 1992 is not proved to be result of any fraud. Still further, the courts have rightly held that the suit filed by the plaintiff was barred by time as the suit was filed after a period of more than 10 years from the date of decree.

In view of the above, there is no ground to interfere. The present regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

25.09.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No