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

**RSA No.2165 of 2016 (O&M)
Date of Decision:14.09.2018**

AMARJEET KAUR

.....Appellant

Vs

SWARAN SINGH AND OTHERS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Amandeep Singh Saini, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. Plaintiff is in Regular Second Appeal in a suit for declaration and permanent injunction passed by the Courts below.

[2]. Brief facts of the case are that the plaintiff filed a suit claiming that she was owner in possession of the suit property. Restraint was sought against the defendants from interfering into the possession of the plaintiff over the suit property. Plaintiff also challenged the civil Court decree dated 09.04.1991 and consequent mutations. The decree was allegedly obtained on the basis of alleged compromise dated 26.08.1989. The factum of compromise was denied by the plaintiff in the suit. Some

other incriminating facts were also pleaded that there was a sale deed in respect of 46 *Kanals* 3 *Marlas* of land got executed/prepared by Harbhajan Singh including the suit land. A civil Suit No.1030-1 of 17.09.1991 was filed by the plaintiff in the same Court, wherein the plaintiff was held to be owner in possession of the suit land vide decision dated 20.12.1991. According to plaintiff the said decision was having over-riding effect on the compromise decree dated 09.04.1991. Plaintiff claimed that the sale deed was never executed by her in favour of Krishan Kumar and the sale deed executed by Krishan Kumar in favour of Harbhajan Singh was illegal, null and void. Smt. Prem Kaur had already died and the defendants were the legal representatives of Prem Kaur.

[3]. Both the Court below have concluded that the factum of civil Court decree dated 09.04.1991 allegedly based on compromise dated 26.08.1989 and consequent mutations sanctioned in pursuance of civil Court decree dated 09.04.1991 was only challenged on 11.07.2007 i.e. the date of filing of the suit. The suit was patently time barred. The mutation Nos.2043 & 2160 were sanctioned on 09.11.1993 and 24.03.2000 respectively after civil Court decree dated 09.04.1991. The filing of the suit on 11.07.2007 was beyond the period of three years, particularly when the plaintiff was party to the judgment and

decree dated 09.04.1991.

[4]. Numerous litigations initiated during the intervening period of 16 years were also suggestive of the fact that the plaintiff was having knowledge about the decree from the very inception. Even the plaintiff could not prove her possession with reference to any material on record. The *jamabandi* for the year 2008-09 Ex.P-4 did not show the name of the plaintiff in the column of ownership and cultivation, nor the plaintiff could prove the plantation of any tree in the disputed land by leading any cogent evidence except her self served statement.

[5]. Having failed on material front, the plaintiff could not be permitted to ask for re-appreciation of material on record which has already been appreciated by the Courts below while dismissing the suit of the plaintiff concurrently. The findings recorded by the Courts below cannot be held to be on account of misreading of evidence or having suffered with any perversity. No question of law worth consideration is involved in the present appeal and the same is accordingly dismissed in *limine*.

September 14, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No