

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

**RSA No.1669 of 2015 (O&M)  
Date of Decision.16.05.2018**

Shakeena and others .....Appellants

Vs

Mohammed Iqbal and another .....Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. P.S. Dhaliwal, Advocate  
for the appellants.

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**AMIT RAWAL J.(ORAL)**

**C.M. No.4611-C of 2015**

For the reasons stated in the application, delay of 19 days  
in filing the appeal is condoned.

Application is allowed.

**RSA No.1669 of 2015**

The appellants-plaintiffs are aggrieved of the dismissal  
of the suit seeking declaration that they are owners in joint possession  
by challenging the compromise dated 30.07.1985 entered into in civil  
suit bearing No.292 of 26.05.1984 by the trial Court and affirmed by  
the lower Appellate Court.

Mr. P.S. Dhaliwal, learned counsel appearing on behalf  
of the appellants-plaintiffs submitted that originally Khair Din @  
Khair-u-Din son of Barkat resident of Malerkotla was owner in  
possession of the land measuring 31 bighas 18 biswas. He died on  
31.03.1970 and left behind widow, two sons and four daughters. The  
appellant-plaintiff No.1 is the wife. In the aforementioned suit,  
statement was recorded on behalf of the appellants for relinquishment

of the right in the aforementioned property. In fact, the appellants had not suffered any statement. Her statement was obtained by playing fraud. It is in these circumstances, cause of action arose to file the suit on 27.08.2006. Both the Courts below dismissed the suit by holding that the compromise, Ex.D1 does not require registration. Moreover, the plaintiffs had appended her signatures in the aforementioned compromise. The appeal laid before the lower Appellate Court also met with the same fate.

He further contended that both the Courts below have committed illegality and perversity in rendering the finding, for, during all this period, appellants-plaintiffs were not aware of the execution of the relinquishment deed. It is only on demise of Khair Din @ Khair-u-Din, who died on 31.03.1970, the factum of the aforementioned relinquishment of rights came to their knowledge only in the year 2006, thus, necessitating the aforementioned suit.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Dhaliwal. The suit aforementioned was not maintainable as the appellant-plaintiff was party in the previous suit i.e. civil suit bearing No.292 of 26.05.1984. If at all, compromise was obtained by fraud, the remedy was to move application for recalling of the order as the separate suit is expressly barred as per the provisions of Order 23 Rule 3-A CPC. Precisely what is import of the judgments and decrees rendered by the Courts below.

No documentary evidence or legal submission has been made or pointed out to bring the case with the realm of illegality and

perversity to enable this Court for forming a different opinion than the one already arrived at, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The appeal is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**May 16, 2018**  
Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No