

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

**R.S.A. No 2276 of 2015
Date of decision : 16.01.2018**

Randhir SinghAppellant

versus

Nirmala Devi and anr. ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

RITU BAHRI, J.

This regular second appeal is directed against the concurrent finding of facts recorded by the Court below whereby the suit of the plaintiff-appellant (herein after to be referred as 'the appellant') for declaration and permanent injunction of appellant has been dismissed.

The grievance of the appellant before both the Court was that Nirmala Devi obtained the decree in collusion with her husband Dharampal by playing fraud upon Mohar Kaur because Nirmala Devi and her husband Dharampal got the thumb impression of Smt. Mohar Kaur by misrepresenting before the Presiding Officer of Permanent Lok Adalat because at that time the physical and mental condition of Mohar Kaur was very weak. She was unable to understand her good and bad. She was very old and having no sense of her good and bad and in these situation, there was no occasion for the Presiding Officer of Permanent Lok Adalat to pass award in favour of Nirmala Devi. Further when Nirmala Devi had no pre-existing right in the property in dispute then in the absence of Randhir Singh no family settlement could have been arrived between

Mohar Kaur and Nirmala Devi.

The Courts below have given a concurrent finding of fact that no documentary evidence was led by the appellant to prove that after the death of Budh Ram her mother Mohar Kaur used to live with him in Delhi whereas from the ration card Ex D6, D8 and voter list D7 coupled with the oral statement of D.W.1 Ram Niwas and DW2 Mahabir it was established that Mohar Kaur used to live in Panchore with Nirmala Devi. Further appellant has failed to prove on record that Mohar Kaur had no sense at the time of passing award. As per the treatment record placed on record by the defendant, Mohar Kaur used to get treatment from City Heart Clinic and Medical Center, Rewari of Dr. Pawan Goyal which reveals that she has no serious problem. Except the old age difficulty, Mohar Kaur had no serious problem which make her unfit to understand her good and bad.

A bare perusal of the award shows that compromise Ex C1 was duly thumb marked by Mohar Kaur. D.W.8 Parshotam Advocate who had appeared before Permanent Lok Adalat as counsel on behalf of Mohar Kaur also appeared before Court and deposed that Mohar Kaur had engaged him and he had read over and explained the written statement and compromise to Mohar Kaur and she affixed her thumb impression.

The judgment of Telangana and Andhra Pradesh High Court in a case of ***Kothakapu Muthuam Reddy and others vs. Bhargavi Constructions rep by its Managing Partner, Sri V. Ramachandra Rao and others, 2015 (4) Civ CC 589*** referred to by learned counsel for the appellant is of no help to the appellant, as under Section 21 (1) of Legal Services Authority Act, 1987, an award passed by Lok Adalat is deemed to be a decree of civil Court. A civil suit can also be filed to set aside an award of Lok Adalat if it was obtained by fraud.

The fraud has to be established beyond reasonable doubt for seeking interference of Civil Court to set aside award of Lok Adalat.

In the present case, the appellant has failed to prove on record that no fraud has been committed, as D.W.8 Parshotam Advocate who had appeared before Permanent Lok Adalat as counsel on behalf of Mohar Kaur also appeared before Court and deposed that Mohar Kaur had engaged him and he had read over and explained the written statement and compromise to Mohar Kaur and she affixed her thumb impression.

Thus, the finding of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

January 16, 2018
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No