

In the High Court of Punjab and Haryana at Chandigarh

**RSA No. 4478 of 2016(O&M)
Date of Decision:21.9.2018**

Smt. Savitri Devi

---Appellant

vs.

Raj Kumar

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Keshav Partap Singh, Advocate
for the appellant

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for declaration with consequential relief of permanent injunction or in the alternative suit for joint possession filed by the appellant-plaintiff was dismissed by the trial court vide judgment and decree dated 14.3.2013 that came to be affirmed in appeal by the Additional District Judge, Kurukshetra vide judgment and decree dated 30.1.2016.

The appellant-plaintiff challenged the judgment and decree dated 2.3.1970 passed in Civil Suit No. 382 of 1970 in respect of land measuring 64 kanal 10 marlas, situated in village Chanalheri, Tehsil Pehowa, District Kurukshetra purported to be passed in favour of Mehar Singh, father of respondent-defendant Raj Kumar. Smt. Savitri Devi is the

real sister of Sh. Mehar Singh and Raj Kumar defendant is her nephew. The decree dated 2.3.1970 was passed against the appellant and her husband namely Narpat Singh. Narpat Singh passed away sometime in the year 2006 and the instant suit to challenge the judgment and decree passed way back in the year 1970 was instituted in the year 2007.

The plea of the appellant is that the judgment and decree as well as consequent mutation have been procured from the appellant and her deceased husband fraudulently. The appellant is illiterate household lady and her husband was rustic and simpleton person. They got full faith in Mehar Singh. Mehar Singh used to attend case of surplus land under the Land Ceiling Act on behalf of the appellant and her husband and they used to thumb markor printed papers at the asking of Mehar Singh. Taking undue advantage of the same, Mehar Singh procured judgment and decree dated 2.3.1970. The appellant and her husband never engaged any counsel in the said suit and never admitted case of Mehar Singh. It was wrongly mentioned in the plaint of said suit that a family settlement was arrived at on 1.10.1969. Mehar Singh had no pre-existing right in the suit land and as such there is no question of family arrangement with Mehar Singh. Possession of land was not handed over to Mehar Singh in pursuance of alleged family arrangement.

Both the courts have consistently held that the judgment and decree dated 2.3.1970 was suffered by the appellant and her husband Narpat Singh. Counsel for the appellant has failed to advance any arguments much less meaningful to challenge factual findings negating plea of the appellant that judgment and decree dated 2.3.1970 is the result of

fraud. No sooner the plea of appellant with regard to judgment and decree dated 2.3.1970 to be the result of fraud is negated, it becomes implicitly clear that the said judgment and decree was suffered by the appellant and her husband Narpat Singh in favour of Mehar Singh, real brother of appellant whereas the appellant and Mehar Singh has no issue. As the appellant and her husband admitted claim of Mehar Singh on the basis whereof judgment and decree dated 2.3.1970 was passed, the present suit filed by the appellant in the year 2007 after a period of 37 years is clearly barred by limitation, as has been so held by the courts. Once suit of the appellant is barred by limitation, nothing survives for consideration of this court with regard to merits of any factual or legal plea sought to be raised by the appellant.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

21.9.2018
paramjit

Whether speaking/reasoned: Yes
Whether reportable : Yes/No