

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

RSA No.5222 of 2016 (O&M)

Date of decision:13.11.2018

Jeeta Singh (since deceased) through LR's and others ... Appellants

Vs.

Om Parkash and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sandeep Kotla, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.13574-C of 2016

For the reasons stated in the application which is duly supported by an affidavit, delay of 4 days in re-filing the appeal is condoned.

C.M. stands allowed.

RSA No.5222 of 2016 (O&M)

The present appeal has been filed on behalf of plaintiff-Jeeta Singh (since deceased) through LR's and others claiming declaration by laying challenge to the compromise dated 28.01.2008. Both the Courts below negated the plea.

Mr. Sandeep Kotla, learned counsel appearing on behalf of the appellants submitted that aforementioned compromise, was on the basis of fraud and mis-representation, therefore, cause of action arose to file the suit.

I am afraid the aforementioned argument is not sustainable in view of the provisions of Order 23 Rule 3-A CPC, where the remedy was to seek recalling of the order but not by filing an independent suit. Had the decree been on the basis of consent/admission as per the Order 12 Rule 6 CPC, suit could have been maintainable. This is what the import of the judgments and decrees of the Courts below.

I do not find any illegality and perversity in the findings rendered by both the Courts below. No ground is made out for interference.

The appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 13, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No