

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

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RSA 4670 of 2015 (O&M)
Date of decision: 07.03.2018

Ram Karan and another

..... Appellants

Versus

Jai iBhagwan and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. B S Bairagi, Advocate
for the appellants

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for declaration with consequential relief of permanent injunction by assailing judgment and decree dated 23.02.2008 passed in civil suit No. 542 of 2007 titled *Jai Bhagwan and another vs Malha* being illegal, null and void and not binding on the plaintiffs/appellants was dismissed by the trial Court and the judgment and decree passed by the trial Court were affirmed in appeal by the Additional District Judge, Sonapat.

Counsel for the appellants, in line, with the arguments raised before the Courts would urge that judgment and decree dated 23.02.2008 is the result of fraud, undue influence and misrepresentation practised by respondents No. 1 and 2 upon respondent No. 3, therefore, are liable to be set aside. Another submission made by counsel is that as the judgment and

decree aforesaid has not been got registered that has created right in immovable property in favour of respondents No. 1 and 2, the same cannot hold good to create right in the suit property, in favour of respondents No. 1 and 2.

I have gone through the judgments passed by the Courts but find that consistent findings recorded by the Courts below do not call for intervention in regular second appeal as neither the same suffer from perversity nor raise a substantial question of law that requires adjudication by hearing the contesting party. It is pertinent to note that the appellants raised a plea that they have no relationship with respondents No. 1 and 2 and they are stranger to family of the appellants and defendant No. 3, therefore, there was no occasion of any settlement inter se the defendants on the basis whereof, respondents No. 1 and 2 could maintain the earlier suit that culminated in the judgment and decree dated 23.02.2008.

Perusal of the records would reveal that the appellants approached the Court by raising a plea based on blatant lie as respondents No. 1 and 2 are none-else but nephews of Malha being sons of his real brother Laxmi Chand alias Lakshmi Chand. It has also been proved that Malha, defendant No. 3 is residing with his nephews Jai Bhagwan and Balraj sons of Laxmi Chand alias Lakhmi Chand and he is not residing with the appellants who are son and wife of said Malha. The very fact that Malha is residing with his nephews falsifies plea of the appellants that the appellants and Malha constituted a joint Hindu family, therefore, no such family settlement inter se the defendants could be arrived at without the appellants/plaintiffs being privy to it. It has also been proved that property

in question was initially owned by Fateh son of Mansa. Fateh suffered a decree dated 16.07.1987 in favour of Malha to the exclusion of Lakhmi Chand alias Laxmi Chand. Malha, in lieu thereof, decided to give the suit land to sons of Lakhmi Chand (respondents No. 1 and 2) by way of family settlement. Malha appeared in the witness box and supported cause of defendants No. 1 and 2. His statement falsifies and belies plea of the appellants that either there was no family settlement inter se the defendants or judgment and decree dated 23.02.2008 are the result of fraud. The appellants are guilty of approaching the court with unclear hands, sufficient to deny the relief. Analyzed from any angle, the appeal sans merits and ordered to be rejected.

No other point has been raised.

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

(Rekha Mittal)
Judge

07.03.2018
mohan bimbura

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