

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

**RSA No.5275 of 2015 (O&M)
Date of decision : April 18, 2018**

Lajja

..... Appellant

Versus

Shyambir and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Tribhawan Dahiya, Advocate for
Mr. Mahendra Singh Tewatia, Advocate for the appellant.

1. Whether the Reports of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

CM-12565-C-2015

There is delay of 110 days in re-filing the present appeal.

For the reasons mentioned in the application, delay of 110 days in re-filing the present appeal is condoned, subject to all just exception.

Application stands disposed of.

Main Case

Impugned in the present regular second appeal is the judgment dated 03.12.2014 passed by learned Addl. District Judge, Palwal, affirming the judgment and decree dated 17.03.2012 passed by learned Addl. Civil Judge (Sr. Divn.), Palwal, vide which the suit of the plaintiff was dismissed.

Heard.

The plaintiff had filed a suit for declaration to the effect that she is owner in possession of the suit land and the judgment and decree dated 13.08.1991 allegedly suffered by her and mutation No.4070 sanctioned by defendants on 04.08.2007 is illegal and not binding upon her.

As per the case of the plaintiff, the suit land measuring 110 kanals, 7 marlas, was initially owned by Hukam Singh. Hukam Singh was succeeded by his sons and daughter including Smt. Lajja (plaintiff). One of the sons of Hukam Singh, namely, Gopi also died on 13.07.1998 and defendants are legal heirs of Gopi. The plaintiff claimed that she had good relations with all of her three brothers and had faith in them. When the plaintiff intend to alienate the suit property, she contacted the Revenue Officer and came to know that mutation No.4070 was sanctioned on 04.08.2007. The plaintiff challenged the judgment and decree dated 13.08.1991 passed by learned Sub Judge 1st Class, Palwal on the ground that the decree was obtained fraudulently. The decree was obtained on the same day. Late Gopi also played fraud and produce the fake lady in place of the plaintiff. The decree was acted upon only on 04.08.2007 when the mutation was got sanctioned.

The plaintiff further claimed that defendant Nos.1 and 2 had also procured bogus relinquishment deed dated 12.09.2005 on behalf of the plaintiff regarding the land measuring 11 kanals 12 marlas. It was also claimed that if the plaintiff had suffered a decree dated 13.08.1991 in favour Gopi, father of defendant Nos.1 to 3 and husband of defendant No.4, then there was no necessity for preparing relinquishment deed dated 12.09.2005.

Both the Courts below have recorded the findings that the plaintiff had failed to prove the fraud as alleged by her. It was also found that the relinquishment deed was also executed. It also comes out that the judgment and decree dated 13.08.1991 was challenged after 15 years before the Court. The plaintiff was party to the decree. She had appeared in the

Court and made statement. Mere fact that the decree was not got entered in the revenue record and was passed on the same day, is no ground to set aside the decree. There are concurrent findings of facts recorded by both the Courts below. There is no illegality or perversity in the same and there is no force in the present regular second appeal. The same is, accordingly, dismissed.

Since, the main appeal has been dismissed, therefore, the pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

April 18, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No