

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

(128)

RSA-725-2016 (O&M)

Date of Decision: October 30, 2018.

Ram Rattan and another

..Appellants

Versus

Jagdish and others

..Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. R.S. Sihota, Sr. Advocate, with
Mr. B.R. Rana, Advocate, for the appellants.

AMIT RAWAL, J. (ORAL)

Appellants/plaintiffs have not been successful before the Courts below claiming declaration with consequential relief of permanent injunction challenging the judgment and decree dated 06.10.1993 rendered in Civil Suit No.801 of 1993. It was averred that the plaintiffs have been in actual, physical and cultivating possession to the extent of 1/4th share jointly in equal share i.e. 1/8th share each in the suit land. As a matter of fact, the defendants had some intimacy with each other, they being of one and the same village approached the plaintiffs and requested them to stand as surety in some of their case in the Court at Palwal and obtained the decree. Factum of aforementioned decree came to their knowledge when they approached Patwari to obtain the copy of the jamabandi and as such the suit was filed on 22.08.2006.

The defendants contested the suit by raising numerous pleas vis-a-vis maintainability, locus standi, suppression and concealment of facts etc. On the preponderance of the evidence, the trial Court dismissed the suit and the appeal taken before the lower Appellate Court was also dismissed.

Learned Senior counsel appearing on behalf of the appellants has submitted that pedigree table reflected in the grounds of memorandum of appeal shows that there was no relation between the plaintiffs and defendants.

Therefore, no question arose of suffering any decree by virtue of any family settlement. The Courts below have non-suited them on the ground that no

criminal action had been initiated. Can it be a reason for non suiting the plaintiffs, thus prayed for setting aside the impugned judgment and decree.

I am afraid that the aforementioned arguments are not sustainable in view of there being no such evidence except the self serving statement of plaintiffs. In other words, it has not been established that there was any relation nor any evidence has been led to prove that thumb impression appended in Civil Suit No.801/93 filed by respondent-defendant herein was not of the plaintiffs.

Article 58 of the Limitation Act envisages limitation of 3 years. A person cannot extend the period of limitation by making a bald averment of having acquired knowledge when the suit was filed, for approaching the Court under Article 59 of the Act. It was not the case of the appellants-plaintiffs that they had no knowledge regarding the judgment and decree dated 06.10.1993 nor they had suffer it particularly when no criminal action was taken.

I do not find any illegality and perversity in the judgments of the Courts below nor any substantial question of law arise.

Resultantly, the appeal is dismissed.

October 30, 2018.
harsha

(AMIT RAWAL)
JUDGE

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