

RSA No.131 of 2017 (O&M)

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

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RSA No.131 of 2017 (O&M)

Date of Decision : 16.08.2018

Sarabjit Kaur

..... Appellant

Versus

Gurnam Kaur and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Deepak Aggarwal, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing a suit filed by the appellant.

The appellant had challenged a decree suffered by her father in favour of his brother in the year 1984. It has further transpired that the appellant and her mother had challenged that decree in the year 1988 also. That suit was decreed, thereafter the respondents filed an appeal and during the pendency of the appeal, in the year 1993 the counsel for the appellant made a statement that he withdrew the main suit in view of some compromise. The averment made in the present suit was that the earlier counsel had no instructions to withdraw the suit and that that withdrawal was also wrong because the appellant was minor at that time. One of the reasons which weighed with the Courts below in dismissing the suit was the fact that the appellant could not prove when she became major.

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In my considered opinion, there are too many hurdles in the path of the appellant. There is nothing on the record to show after how many years of suffering the decree did the father die. There is no explanation as to what happened to the mother. There is no explanation why, (even if the appellant was a minor) her mother chose to remain quiet if the Advocate had wrongly withdrawn the suit. Once the appellant is not able to prove her date of birth there was no explanation how she could challenge the withdrawal of suit of 1993 in 2007. There is no explanation why the appellant did not move an application for setting aside that order and instead chose to file a fresh suit.

In the totality of circumstances, I find no merit in this appeal and dismiss the suit.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

16.08.2018
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No