

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

-.-

RSA 4239 of 2017 (O&M)
Date of decision: 09.03.2018

Jagjit Singh and others

.....*Appellants*

Versus

Nairlep Singh and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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

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Rekha Mittal, J. (Oral)

CM 14015 C of 2017

Dismissed as withdrawn.

CM 3746 C of 2018

Allowed as prayed for. Annexure A2 is taken on record subject
to just exceptions.

CM 11002 C of 2017

Prayer in this application is for condonation of delay of 1 day in
filing the appeal.

In view of averments made in the application supported by an
affidavit of Sikander Singh son of Gurbachan Singh, the application is
allowed and delay of 1 day in filing the appeal stands condoned.

Main case

The present appeal directs challenge against concurrent
findings recorded by the Courts whereby suit filed by Nairlep Singh and
others, successors-in-interest of Bhag Singh son of Angan Singh son of

Nika Singh was partly decreed by the trial Court to the effect that Harchand Singh and Gurcharan Singh had no share in land mentioned at letter 'A' and 'C' and accordingly entries in revenue records showing defendants No. 1 to 7 (legal representatives of Gurcharan Singh) and defendants No. 8 to 10 (legal representatives of Harchand Singh) as owners in possession of land at letter 'A' and 'C' are erroneous and liable to be deleted. Further held that defendants No. 1 to 10 are restrained from alienating any part of land mentioned at letter 'A' and 'C' on the basis of wrong revenue entries. However, relief with regard to property mentioned at letter 'B' and sale deed dated 30.05.1989 was declined, leaving parties to bear their own costs.

The judgment and decree dated 24.12.2013 passed by the Additional Civil Judge (Senior Division), Fatehgarh Sahib (hereinafter to be referred as 'the trial Court') came to be affirmed in appeal by the Additional District Judge, Fatehgarh Sahib vide judgment and decree dated 16.03.2017.

Perusal of the judgments passed by the Courts would reveal that the present lis pertains to property left behind by Angan Singh son of Nika Singh, grand father of appellant Jagjit Singh son of Shri Gurcharan Singh. As per case set up by respondents/plaintiffs, Angan Singh left behind registered Will dated 22.04.1964 in respect of property situated at Village Kalour, Tehsil Bassi Pathanan, District Fatehgarh Sahib including land mentioned at letter 'A' and Will dated 20.04.1969 in respect of property situated at Village Hussainpura, Tehsil Bassi Pathanan, District Fatehgarh Sahib including land mentioned at letter 'C'.

The Courts have consistently held that successors-in-interest of Gurbachan Singh and Harchand Singh are bound by the decision in civil suit No.21/09.01.1970 passed by the Court of Sub Judge First Class, Bassi

Pathanan, affirmed upto Hon'ble the Supreme Court.

The sole submission made by counsel for the appellants is that in the previous litigation initiated in January 1970, bald statement made by Gurcharan Singh and Harchand that the deceased had executed Wills but as they had not admitted correctness and genuineness of the Wills, findings recorded in the previous litigation can neither bind the successors-in-interest of Gurcharan Singh and Harchand Singh nor they can be estopped from challenging the Wills.

Contention raised by counsel is highly misconceived and liable to be rejected. The appellants are bound by the decision in the earlier lis wherein Gurcharan Singh and Harchand Singh, their predecessors were a party. As per the settled position in law, a wrong or incorrect judgment is equally binding upon the parties as is correct one unless the judgment is challenged and set aside in appropriate proceedings. It is not plea of the appellants that the judgment passed in earlier lis is vitiated by fraud on any Court whatever. In this view of the matter, I do not find an error much less perversity in the findings that successors-in-interest of Gurcharan Singh and Harchand Singh are bound by the judgment passed in the previous suit filed in 1970.

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

09.03.2018
mohan bimbura

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