

IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

RSA No. 3794 of 2018 (O&M)
Date of Decision : 11.07.2018

Maghar Singh since deceased through LRs & anr. ...Appellant's

Versus

Surjit Kaur & ors. ...Respondents

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present :- Mr. Deepak Gupta, Advocate
for the appellants.

Mr. Vikas Garg, Advocate
for respondent No.1.

B.S. Walia, J (Oral)

CM-9714-C/18

For the reasons as mentioned in the application, the delay of 216 days in filing the appeal is condoned.

CM application is allowed.

CM 10608/18

1. Application for placing on record compromise dated 05.03.2018 i.e. Annexure A-2 as well as affidavit of appellants and respondent No.1 dated 05.03.2018 compromising the dispute inter se is allowed. The documents attached to the application are taken on record.

2. Respondent No.1 i.e. Surjit Kaur had filed a civil suit seeking a permanent injunction restraining the deceased appellant from alienating

more than his share and specific khasra numbers out of the suit property except in due course of law with the averments that defendant 1 i.e. deceased appellant was co-sharer and co-owner with the plaintiff/respondent No.1 of land measuring 113 Kanals 08 Marlas.

2. The suit was decreed by the learned Additional Civil Judge, (Senior Division), Phul vide judgment and decree dated 25.11.2016. Appeal was filed before the learned Additional District Judge, Bathinda by the defendants Maghar Singh and Karamjit Kaur. However, during the pendency of the appeal, Maghar Singh died and his legal heirs were ordered to be impleaded as LRs vide order dated 05.04.2017 while adjourning the case to 25.04.2017 for arguments. As a result thereof, the mother of deceased Maghar Singh and daughter were also impleaded and now are arrayed as proforma respondent Nos.2 and 3 in this appeal. The appeal was dismissed vide judgment and decree dated 25.04.2017 whereafter instant regular second appeal was filed.

3. Learned counsel for the appellants states that a compromise, Annexure A-2 has been arrived at between respondent No.1 and appellant's. Copy of the same is taken on record and the same shall be read as part and parcel of this judgment. The compromise is supported by affidavits (Annexure A-3) of respondent No.1 as also of the appellants. Operative part of the compromise is reproduced as under :-

1. That as per compromise, both the parties have agreed to get the judgment and decree dated 25.11.2016 and subsequent judgments/orders passed by the respective learned Courts, set aside.

2. That partition of the land in dispute has already been taken place between the parties.

3. That as per compromise, Ist party shall co-operate the 2nd party to get the entry of injunction removed from the revenue record and shall become herself available before the revenue authorities and to put her signatures/RTI on the relevant record, which shall be necessary for the removal of entry of injunction in the revenue record, as per compromise.

4. That none of the party to the compromise shall create any hindrance in the way of construction raised by any party over the suit property.

5. That in case any party resile from the terms of agreement, that party shall be liable to pay Rs.2,00,000/- as compensation to the other party and the other party shall be entitled to receive the same from resiling party even through the process of the Court.

6. That this compromise is being effected with freewill, free consent of both the parties, without any misrepresentation, cheating, fraud or undue influence and both the parties to the compromise put their respective signatures on the compromise after hearing, understanding and while admitting the contents of the compromise to be true and correct.

This compromise is being effected today i.e. 05.03.2018 in the presence of witnesses thereof.

4. Mr. Vikas Garg, Advocate has put in appearance on behalf of respondent No.1 and verifies compromise Annexure A-2 having been arrived at between the parties as also of respondent No.1 having executed the same, besides having sworn affidavit Annexure A-3, therefore, not being interested in prosecuting the defence any further, rather for setting aside judgment and decree passed by the learned trial Court dated 25.11.2016 as upheld by the learned lower appellate court and for dismissing the suit.

5. In the given circumstances, learned counsel for the parties pray for setting aside of the judgment and decree passed by the learned trial Court dated 25.11.2016 as upheld by the learned lower appellate court vide judgment and decree dated 25.04.2017 and for dismissing the suit.

6. In view of the compromise as noted above, the judgment and decree passed by the learned trial Court dated 25.11.2016 as upheld by the learned lower Appellate Court vide judgment and decree dated 25.04.2017 is set aside and the suit is dismissed in terms of the compromise.

7. Decree sheet be drawn accordingly.

(B.S. Walia)
JUDGE

11.07.2018
Manpreet

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No