

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

RSA No.438 of 2017 (O&M)

Date of decision : 16.10.2018

Yudhister and another

...Appellants

Versus

Tara Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Gupta, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

The defendants-appellants are in the Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

Both the Courts have found that defendant No.1-appellant No.2 has committed fraud with his brother. First of all in a suit filed by Bhudev, the decree was passed acknowledging a family settlement, resulting in transfer of the entire property except land comprised in khewat No.489 in favour of Bhudev. Defendant No.1-appellant No.2 challenged the aforesaid Civil Court decree. During the pendency of the aforesaid civil suit, a compromise was arrived at on 16.09.1989 wherein it was acknowledged that defendant No.1-appellant No.2 shall be entitled to only 1/4th share in the property of his father i.e. Med Ram. The compromise deed signed by the parties was filed in the Court. However, thereafter defendant No.1-appellant No.2 made a statement in the Court giving up his two brothers namely Tara

Chand and Sarvan, thus, the decree was only passed to the effect that defendant No.1 is declared owner of 1/4th share.

Both the Courts after appreciating the evidence have found that once a compromise deed has been filed in the Court which is not disputed, the Court ought to have passed a decree in accordance thereof.

Learned counsel for the appellants submitted that since the decree was passed in the year 1990, therefore, the suit filed by the plaintiff-Tara Chand was clearly barred by time as it was filed in the year 2011.

This aspect has been considered by the Courts below and found that as and when fraud came to the notice of the plaintiff, the suit has been filed. Still further, once the existence and validity of the compromise deed dated 16.09.1989 is not in dispute, defendant No.1 cannot claim any share more than 1/4th. Defendant No.1-appellant No.2 is also claiming the property on the basis of the aforesaid compromise deed. Hence, the plaintiff would also be entitled to a property which come to his share as per the compromise deed dated 16.09.1989.

Hence, there is no ground to interfere.

Regular Second Appeal is dismissed.

16.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No