

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 6263 of 2017(O&M)

Date of Decision: 18.9.2018

Ramdas and others

---Appellants

versus

Janeshwar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Parminder Singh, Advocate
for the appellants**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit filed by Ramdas and others successors-in-interest of Anup Singh, brother of Khajan to challenge the judgment and decree dated 1.3.1978 passed in Civil Suit No. 93 of 1978 titled “Janeshwar vs Khajan and others” and judgment and decree dated 26.5.1983 passed in Civil Suit No. 263 of 1983 titled “Satbir and others vs. Janeshwar and others” being illegal, null and void and result of fraud and misrepresentation thus not binding on rights of the appellants-plaintiffs was dismissed by the trial court on 20.3.2013 and appeal preferred by unsuccessful plaintiffs-appellants did not find favour with the Additional District Judge, Panipat.

The sole submission made by counsel for the appellants is that an application for additional evidence has been filed to place on record

Annexures A1 to A4, documents produced by Krishan Lal Clerk, SDM Office, Panipat PW8 in respect of the litigation that culminated in the judgment and decree dated 1.3.1978 in the suit titled “Janeshwar vs. Khajan and others”. It is argued that only Baleshwar defendant No. 2 in the said suit filed the written statement but no written statement was filed by Khajan-defendant No. 1 admitting claim of Janeshwar respondent No. 1. The statement purported to be recorded by the parties with regard to admission of claim of Janeshwar by the defendants in the said litigation does not bear signatures of the presiding Officer of the Court, therefore, could not be taken into consideration for passing a decree in favour of Janeshwar on the basis of alleged admission of his claim by the defendants therein.

I have heard counsel for the appellants, perused the paper book particularly the judgments impugned and the documents sought to be produced by way of additional evidence.

The plaintiffs are the successors in interest of Anup Singh, brother of Khajan whose estate is involved in the present litigation. On a pointed query, counsel for the appellants would fairly inform that Anup Singh was alive till the year 2002. Admittedly, Anup Singh did not initiate any litigation to challenge the judgment and decree dated 1.3.1978 suffered by his brother Khajan in favour of Janeshwar respondent No. 1. By filing an application for additional evidence, the applicants-appellants sought to bring on record copy of written statement of defendant No. 2 namely Baleshwar in the Civil Suit titled “Janeshwar vs. Khajan and others”. However, perusal of statement of Krishan Lal, Clerk SDM Office, Panipat

PW8 would reveal that the summoned record also contains written statement of Khajan son of Sh. Bansi. The applicants-appellants for the reasons best known did not seek permission to produce copy of written statement filed by Khajan in respect of whose property the previous suit was filed by Janeshwar. The mere fact that statement of Khajan and Baleshwar recorded in the court on 1.3.1978 does not bear signatures of the Presiding Officer which has otherwise been taken into consideration while passing judgment and decree dated 1.3.1978 would not enure to benefit of the appellants unless they are able to substantiate their plea that the vakalatnama, written statement and statement dated 1.3.1978 do not bear thumb impressions of Khajan. In this view of the matter, I do not find an error much less illegality in the consistent findings recorded by the courts negating plea of the appellants to challenge the judgment and decree dated 1.3.1978 suffered by Khajan in favour of Janeshwar respondent No. 1. It appears to the Court that this litigation initiated by the appellants is nothing but abuse and misuse of process of law in order to extract something from the contesting defendants. That being so, consistent findings recorded by the Courts do not warrant intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

18.9.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No