

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

**RSA No.5220 of 2016 (O&M)
Date of Decision.06.03.2019**

Premwati ...Appellant

Vs

Bhoop Lal (since deceased) and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Siddharth Mittal, Advocate and
Mr. Rohit Mittal, Advocate
for the appellant.

-.-

AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration that the property at the hands of her father was ancestral and therefore, judgment and decree dated 7.11.1988 passed in civil suit No.317 of 1985 and subsequent mutations on the basis of the compromise were null and void.

According to the averments made in the plaint, Pyare Lal was recorded as owner in possession of the agricultural land measuring 7 kanals 14 marlas. He alleged to have obtained the decree of ownership as occupant tenant, which was challenged by the defendants wherein he suffered a compromise decree and surrendered his occupant tenancy. The compromise was effected in 1988 and Pyare Lal died in 1996. It is in these circumstances, the suit at the instance of the plaintiff being daughter and the sole surviving legal heir was preferred in 2009.

Defendants No.3, 4 and 6 contested the suit and supported the decree and denied that any fraud was practiced upon Pyare Lal. He did not even lay challenge for almost 8 years.

Plaintiff in support of the evidence examined herself as PW1,

Hari Ram as PW2 and tendered documents Ex.P1 to P19 whereas the defendants tendered only documents Ex.D1 to D5.

Learned counsel appearing on behalf of the appellant submitted that judgments and decrees of the Courts below are not sustainable in the eyes of law, as Pyare Lal was having right of *gair marusi* tenant from his forefathers. Once he was accorded declaration being a co-owner as occupant tenant in suit preferred by the landlord, could not surrender it by not protecting the interest of the daughter, thus, there was fraud and misrepresentation. The compromise was totally unconscious as it was without any consideration.

I am afraid aforementioned argument is not sustainable, for, Section 6 of the Hindu Succession Act accorded right to a daughter only w.e.f. September, 2005 and not before. The entire transaction is before that. Be that as it may. Pyare Lal remained alive for eight years but did not challenge the aforementioned compromise. The suit filed in the year 2009 can be said only to be an act of aggrandizement and nothing beyond. The nature and character of the property being ancestral without being a *gair marusi* tenant cannot be a ground to wriggle out of the compromise.

In view of such circumstances, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 06, 2019
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No