

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

**107**

**RSA No.6278 of 2018 (O&M)**

Date of decision : 12.03.2020.

Ram Saroop Puri

... Appellant

Versus

Des Raj Puri and others

.. Respondents

**CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present:- Mr. Arshdeep Bhullar, Advocate for the appellant.

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**Anupinder Singh Grewal, J. (Oral)**

The appellant/plaintiff has challenged the judgments and decrees of the Courts below whereby his suit for declaration to the effect that he and defendant No.1 are owners in possession of the suit land has been dismissed.

Learned counsel for the appellant contends that the judgment and decree dated 13.04.1983 had been obtained by fraud and therefore, the Courts below have erred in not decreeing the suit and setting aside the said judgment and decree.

The appellant/plaintiff had filed a suit for declaration that he and defendant/respondent No.1 are owners in possession of land measuring 33 kanal in Khata No.177/161/183, khasra Nos.13/6(3-18), 7/2(5-11), 8/1(2-8), 13/3(0-8), 17/2(2-11), 13/4(1-13), 24(6-3), 25/1(2-6), 25/2(4-0), 26(2-19), 28/5/4(0-2), 81(1-1) at village Gobindgarh, tehsil and district Mohali, to the extent of 1/12<sup>th</sup> share each with further declaration that the judgment and decree dated 13.04.1983 is illegal, null and void. Declaration had also been sought to the effect that sale deed dated 31.08.2015 executed by the defendant

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No.1 in favour of defendants No.2 and 3 is illegal, null and void and is liable to be set aside, with a consequential relief of permanent injunction restraining the defendants from alienating the suit property. The suit of the appellant/plaintiff is based on the pleading that the judgment and decree dated 13.04.1983 had been obtained by respondent/defendant No.1 through fraud and therefore, it deserves to be set aside. The appellant/plaintiff and defendant/respondent No.1 are brothers and the judgment and decree dated 13.04.1983 had been obtained by respondent/defendant No.1 against their mother, Smt. Parsini. The judgment and decree dated 13.04.1983 was passed in a suit filed by respondent/defendant No.1, namely, Des Raj Puri seeking declaration that he is owner in possession of 1/16<sup>th</sup> share of Smt. Parsini in the land measuring 33 kanals. The suit had been decreed in favour of respondent/defendant No.1 and he was held entitled to 1/16<sup>th</sup> share of Smt. Parsini. The case of the appellant/plaintiff is that while filing this suit which had led to the passing of the judgment and decree dated 13.04.1983, defendant/respondent No.1 had not disclosed that he had earlier filed a suit on the same cause of action which was dismissed vide judgment and decree dated 23.12.1982. A copy of the judgment and decree dated 23.12.1982 is Ex.P6. It is apparent from the perusal of the judgment and decree dated 23.12.1982 that the suit had been filed by defendant/respondent No.1, namely, Des Raj Puri that his mother, namely, Smt. Parsini had given the suit property to the extent of her share to him. It was the case of Smt. Parsini that she had given the property to the extent of her share to Des Raj Puri but in her lifetime, the share will remain with her and only after her death, it will devolve upon Des Raj Puri (respondent/defendant No.1). She

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had also stated that she had three sons and it was Des Raj Puri who was looking after her and it was in such circumstances, the suit was dismissed. The subsequent suit, which was preferred by respondent/defendant No.1 which led to the passing of the judgment and decree dated 13.04.1983, was seeking a declaration that in terms of the family settlement between Des Raj Puri and Parsini, she had given 1/16<sup>th</sup> share in the land measuring 33 kanals and therefore, he be declared as owner in possession. In that suit, Smt. Parsini had suffered statement on 01.02.1983 that Des Raj Puri is her son and she has no objection if the suit is decreed as she had given her share to Des Raj Puri at her own volition. Consequently, the suit was decreed vide judgment dated 13.04.1983 and it was never challenged by Smt. Parsini during her lifetime.

Therefore, from the aforementioned facts and circumstances, it cannot be said that the judgment and decree dated 13.04.1983 was obtained by fraud or misrepresentation.

Consequently, I do not find any illegality in the judgments of the Courts below dismissing the suit of the plaintiff/appellant and the appeal stands dismissed.

Pending application, if any, shall also stand disposed of.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**March 12, 2020**  
sonia gugnani

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |