

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

**RSA-2198-2008 (O&M)
Decided on : 11.01.2021**

Gaze Singh and others

... Appellant(s)

Versus

Piara Singh and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

Present: Mr. Ravi Malik, Advocate
for the appellant(s).

None for respondent No.1.

Mr. Subhash Rana, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (Oral)

CM-4915-C-2020

In compliance to the order dated 30th July, 2020, report of the Additional District Judge, Kaithal, dated 15.09.2020, with respect to the genuineness and authenticity of the compromise so arrived at between the parties, has been received. Same is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

CM stands disposed of and the main appeal is taken up for hearing today itself.

RSA-2198-2008 (O&M)

Appellants before this Court have filed the instant Regular Second Appeal (for brevity, 'RSA'), to impugn the judgment and decree dated 30th April, 2008, vide which the judgment and decree dated 27th February, 2007, of the trial Court was set aside by the learned Addl. District

Judge, Kaithal (in short, 'ADJ'). Parties to the *lis*, hereinafter, would be referred to by their original positions in the suit.

Plaintiff – Piara Singh S/o Kehar Singh @ Kehru filed a suit against Gaze Singh, Ram Chander, Om Parkash, Kehar Singh @ Kehru and Piari, for declaration challenging the revenue entries in favour of Gaze Singh, Ram Chander and Om Parkash claiming 1/6th share in land mentioned in para No.1-A and share to the extent of 1/8th in land mentioned in para No.1-B of the plaint in Civil Suit No. 370 of 2002. The Civil Judge (Sr. Divn.), Guhla vide its judgment and decree dated 27th February, 2007, dismissed the suit with costs. Plaintiff – Piara Singh thereafter, preferred an appeal (Civil Appeal No. 45 of 2007) before the Additional District Judge, Kaithal (for brevity 'ADJ'), against the judgment and decree dated 27th February, 2007, of the trial Court . The ADJ, Kaithal while accepting the appeal with costs on 30th April, 2008, set aside the judgment and decree dated 27th April, 2007. It was in this background, the respondents i.e. Gaze Singh etc. preferred the instant RSA for setting aside the judgment and decree dated 30th April, 2008, passed by the ADJ, Kaithal and for restoration of the judgment and decree dated 27th February, 2007, of the trial Court.

During the pendency of the present RSA, respondent No.1 – Piara Singh and respondent No.3 – Kehar Singh, expired. Vide order dated 30th July, 2020, the legal heirs of respondent No.1 – Piara Singh and respondent No.3 – Kehar Singh, were impleaded as parties. The parties also filed an application (i.e. CM No.4359-C of 2020) for allowing the appeal on the basis of compromise-deed dated 13.03.2020 (Annexure A-3), effected between the legal heirs of respondent No.1 and appellants-respondents i.e. Gaze Singh, Ram Chander and Om Parkash. This Court vide order dated

30th July, 2020, directed the parties to appear before the ADJ, Kaithal for getting their statements recorded with respect to the compromise so arrived at between them. A report, thereafter, was received from the ADJ, Kaithal, with respect to the authenticity of the compromise so arrived at between the parties. As per the report dated 15.09.2020, the parties got recorded their statements and admitted the contents of the compromise-deed dated 13.03.2020 (Annexure A-3), effected between them. The ADJ, Kaithal, in his report confirmed that the parties had compromised the matter without any pressure, undue influence or duress. However, the ADJ, Kaithal, reported that a perusal of the *jamabandies* revealed that the appellants were co-sharers of the land in question. They were owners of land in question (to be transferred in favour of respondents as per compromise) to the extent of ½ share, hence, they were not legally competent to transfer entire land comprised in khasra numbers mentioned in compromise deed in favour of the respondents.

I have minutely gone through the material on record as well as the report dated 15.09.2020 sent by the ADJ, Kaithal, in compliance of the order dated 30th July, 2020, of this Court.

This Court is of the view that the observations of the Court below that the appellants are not competent to transfer land in question to the respondents, is not correct for the reasons to follow. As per the *jamabandies* placed on record Gaze Singh, Ram Chander and Om Parkash have been shown to be owners of ½ share out of the total land measuring 66 Kanal – 12 Marla, but in exclusive possession of 35 Kanal – 9 Marla, out of which, they have given only 25 Kanal – 17 Marla to the legal heirs of Piara Singh. Therefore, Gaze Singh, Ram Chander and Om Parkash can transfer

the possession of 25 Kanal – 17 Marla of land to the legal heirs of Piara Singh, which is in their exclusive possession, however, subject to partition. Since the compromise as also reported by the ADJ, Kaithal, is a valid compromise and without any duress, therefore, the present RSA is disposed of in terms of the compromise-deed dated 13th March, 2020 (Annexure A-3). The said compromise-deed dated 13th March, 2020 (Annexure A-3) be made part of the judgment. Decree-sheet be drawn accordingly. Needless to add the parties shall remain bound by the terms & conditions of the compromise-deed dated 13th March, 2020 (Annexure A-3), so arrived at between themselves.

The miscellaneous application, if any, pending also stands disposed of.

(MANJARI NEHRU KAUL)
JUDGE

January 11, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*