

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

RSA No. 2015 of 2002 (O&M)

Reserved on : 26.08.2022

Pronounced on : 05.09.2022

Suresh Pal

...Appellant

Versus

Som Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Amit Jain, Sr. Advocate with
Mr. Karanbir Singh, Advocate
for the appellant.

Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Kulwant Singh, Advocate,
Mr. Karan Singla, Advocate and
Mrs. Vibuti, Advocate
for the respondents.

ARVIND SINGH SANGWAN, J.

Challenge in this appeal is laid to the judgment and decree dated 15.01.2000, passed by the Civil Judge (Jr. Divn.), Karnal/trial Court, vide which the civil suit No. 32 of 1991, instituted on 14.01.1991, was dismissed; as well as the judgment and decree dated 11.03.2002, passed by the lower appellate Court, wherein the appeal, filed by the appellant/plaintiff against the judgment and decree of the trial Court, was also dismissed.

Brief facts of the case are that plaintiff Suresh Pal filed a suit for declaration with consequential relief of possession and permanent injunction *inter alia* on the ground that he and his father Mahavir Singh, who was arrayed as defendant No. 6 in the civil suit, were in possession of agricultural land measuring 128 Kanals 02 Marlas in equal share and their possession and ownership were previously held in civil suit No. 319/1978, titled as ***Mahavir***

Singh etc. vs. Dhumni, vide decree dated 12.06.1978. Later on, a mutation was also sanctioned and attested on the basis of the same on 30.08.1978. After the decree was passed, the plaintiff and defendant No. 6, being son and father, separated their share and the plaintiff remained in half share of the land. It was further stated that later on, the plaintiff came to know that respondents/defendant Nos. 1 to 5 had fraudulently procured decree on 15.09.1982 in civil suit No. 151 of 1982. It was further pleaded that decree dated 15.09.1982 was obtained by defendant Nos. 1 to 5 by fraud and misrepresentation as he never put his thumb impression on the documents/papers pertaining to decree dated 15.09.1982, written statement, power of attorney, statement dated 1.9.1982, copy of compromise deed Ex. C-1.

The plaintiff further stated that he was always in possession of the suit land as owner and defendants have forcibly dispossessed him from the suit land being 1/4th share of land about 9 ½ years back in the month of June, 1991 during the pendency of the said suit on the basis of impugned decree dated 15.09.1982. The plaintiff prayed for declaring the decree dated 15.09.1982 as null and void as the same is based on fraud and misrepresentation and also sought consequential relief of permanent injunction.

Upon notice, defendant Nos. 1 to 5 appeared through their counsel and filed their written statement inter alia taking preliminary objection that the plaintiff has no *locus standi* and cause of action to file the present suit as the same is in collusion with defendant No. 6, who is his father. It was also pleaded that the plaintiff had concealed true and material facts from the court and the suit is hopelessly time barred. It was also pleaded that the suit is not properly valued for the purpose of court fee. On merits, defendant Nos. 1 to 5 stated that the plaintiff and defendant No. 6 never remained in possession of the suit land and the passing of decree dated 12.06.1978 in favour of the plaintiff is a matter of

record and the plaintiff must prove the same. It was further stated that till 1965, Dhumni Devi was in possession of the suit land when she entered into an agreement to sell the land with defendant Nos. 1 to 5 and she delivered possession to defendants and since then the respondents/defendants are in the peaceful and continuous possession of the suit land as owners. It was further stated that the plaintiff had no right, title or interest over the suit land and after passing of the impugned decree dated 15.09.1982, the revenue record was also corrected in favour of the respondents/defendants. It was further pleaded by defendant Nos. 1 to 5 that plaintiff and defendant No. 6 never remained in possession of the suit land and they never cultivated the same. It was also pleaded that the defendants had even taken loan on the suit land and hypothecated the same and later on, the same was cleared by them. They have also installed tubewells on the suit land and they are regularly paying the electricity bills. It was further pleaded that the plaintiff and his father Mahavir Singh/defendant No. 6 exchanged land under the impugned decree with their other land, vide mutation No. 3165 and 3591, Ex. D17 and Ex. D-18. It was also pleaded that defendants spend a huge money of about Rs.2 Lakh for leveling the suit land making it worth cultivable.

It was further pleaded by the defendants that there was no fraud or misrepresentation as the plaintiff and his father Mahavir Singh, who was defendant in civil suit No. 151 of 1982, voluntarily engaged Harnam Singh, Advocate as their counsel and voluntarily entered into compromise dated 11.09.1982, which is Ex. C-1 and made statement on oath, subsequent to which, the impugned decree dated 15.09.1982 was passed in favour of the defendants.

The replication was not filed by the plaintiff and from the pleadings of the parties, the following issues were framed:

1. Whether the decree dated 15.09.1982 passed in civil suit No. 151 is null and void and illegal on the grounds mentioned in para no. 4 of the plaint? OPP
2. Whether the plaintiff is owner in possession of the suit land?OPP
3. Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD
4. Whether the suit is not valued for the purpose of court fee and jurisdiction? OPD
5. Whether the suit is time barred? OPD
6. Relief.

In order to prove his case, the plaintiff examined himself as PW1 Mahavir Singh as PW2 and Gian Singh as PW3 and defendant examined Joginder Singh as DW1, Haram Singh Advocate as DW2, SK Raheja Advocate as DW3, Yashpal Chand Jain as DW4 and Lachman Dass as DW5 and placed on the file copy of power of attorney Ex. D1, photostat copy of compromise Ex. D2, copy of statement Ex. D3, documents submitted by finger print expert Ex. DW4/A to Ex. DW4/D, electricity bills Ex.D6 to Ex.D9 postal receipts ExD10 to Ex.D12 copy of judgment Ex. D13 copies of jamabandis Ex. D24 to Ex.D18,copy of order Ex.D19 copy of decree sheet Ex.D20, copy of intkal (mutation) Ex.D21 copy of jamabandi Ex. D22 to Ex. D24 copy of khasra girdwari Ex. D25 to Ex.D31.

On the basis of material and evidence led, both the Courts below recorded concurrent findings dismissing the suit filed by the appellant/plaintiff Suresh Pal.

The lower Court's record is requisitioned.

It is worth noticing that defendant No. 6 Mahavir Singh, who is father of plaintiff Suresh Pal, had also filed an independent suit, which was dismissed by the trial Court, however, the findings of the trial Court were reversed by the lower appellate Court and RSA filed by the defendants, bearing

RSA No. 1230 of 2006, titled as Om Chand and others vs. Mahavir Singh and another, is also tagged with the present appeal and arguments in both the appeals have been heard together.

The challenge in the suit filed by Mahavir Singh was also laid to the same decree dated 15.09.1982 passed in civil suit No. 151 of 1982.

The appellant has set up the following substantial Questions of Law:

- (a) Whether the impugned compromise and the decree are illegal, fraudulent and unsustainable in law?
- (b) Whether the contesting respondents, being the strangers, the impugned compromise decree is illegal and hit by Section 17 of the Registration Act and Section 54 of the Transfer of Property Act?
- (c) Whether the suit is barred by limitation?

Learned senior counsel for the appellant has argued that the appellant/plaintiff Suresh Pal and his father/defendant No.6 Mahavir Singh became the owner of the suit land by virtue of decree dated 12.06.1978 in civil suit No. 319 of 1978, titled as ***Mahavir Singh etc. vs. Dhumni*** and since then they are owner in possession of the suit land. It is further submitted that after passing of the said decree, both, Suresh Pal and his father Mahavir Singh separated their share and plaintiff Suresh Pal came in possession of half share of the land measuring 128 Kanals 2 Malras, as per aforesaid decree, therefore, respondents/defendant Nos. 1 to 5 have no right, titled or interest over the suit land and the suit for permanent injunction was liable to be decreed by the Courts below.

Learned senior counsel has next argued that the plaintiff came to know that by way of decree dated 15.09.1982 passed in civil suit No. 151 of 1982, defendant Nos. 1 to 5 have fraudulently procured the title of the entire land

in their favour and the said decree is not binding on the right of the plaintiff as it is null and void and is obtained by playing fraud and misrepresentation with plaintiff Suresh Pal as well as his father Mahavir Singh.

Learned senior counsel further argued that both the Courts below failed to appreciate that during the pendency of the proceedings in the civil suit No. 151/1982, which culminated into passing of the impugned decree dated 15.09.1982, neither plaintiff nor his father appeared in Court nor they filed any written statement. Even the power of attorney and the statement recorded by the Court on 01.09.1982 were not signed by plaintiff Suresh Pal or Mahavir Singh and even on the compromise Ex. C-1, the plaintiff never signed or appeared before the Court.

Learned senior counsel for the appellant/plaintiff has further argued that the plaintiff has led sufficient evidence to prove that compromise Ex. C-1 was an outcome of fraud and the impugned decree was not binding upon rights of the plaintiff, therefore, he is entitled to a decree of permanent injunction. It is further submitted that the appellant has proved that he remained in continuous possession of the suit land along with his father Mahavir Singh and, therefore, the impugned decree is not binding upon the rights of the plaintiff as in the suit for injunction, the plaintiff has successfully proved that he is in possession of the suit property.

It is further argued that the compromise decree creates a right for the first time and since the value of the suit land was taken at Rs. 100/-, the decree requires compulsory registration, therefore, the same is liable to be set aside.

Learned counsel for the appellant/plaintiff has referred the own statement of the appellant recorded as PW-1 and that of Mahavir Singh as PW-2 as well as the other statement to submit that the decree was an outcome of fraud

and neither plaintiff nor his father Mahavir Singh appeared before the Court below.

In reply, learned senior counsel for the respondents/defendant Nos. 1 to 5 has argued that in fact it is a candid stand of defendant No. 1 to 5 that in the year 1965, they have entered into an agreement to purchase the suit land from Dhumni Devi and the entire sale consideration of Rs. 13,000/- was paid and thereafter, Rs. 2 Lakh was spent on the leveling of the suit land and they also installed two tubewells by taking connection from the Electricity Department.

Learned senior counsel for the respondents has referred to the statement of defendants' witnesses to submit that since during the lifetime of Dhumni Devi, defendant Nos. 1 to 5 remained in possession of the suit land, therefore, the Courts below have rightly declined to grant injunction.

Learned senior counsel has referred to the statement of DW-5 Lachhman Dass, who has proved the factum of payment of sale consideration by Basawa Ram to Dhumni Devi in his presence and since then, defendant Nos. 1 to 5 remained in possession of the suit property.

Learned senior counsel has further argued that after the purchase of the land from Dhumni Devi, defendant Nos. 1 to 5 have installed two tubewells and even got electricity connection released from the department concerned, which is proved by Ex. D-6 to D-9. It is further submitted that if defendant Nos. 1 to 5 were not in possession of the suit land, the Electricity Department would have never released electricity connection in their favour.

Learned senior counsel for the respondents has further argued that Dhumni Devi died in the year 1978 and since plaintiff Suresh Pal and his father Mahavir Singh, on the basis of the consent decree dated 12.06.1978 passed in civil suit No. 319/1978, started claiming ownership of the suit land, civil suit No. 151/1982 was filed by defendant Nos. 1 to 5 on the basis of the compromise Ex.

C-1, which was arrived at between the parties. It is argued that in the said suit, the compromise, which was signed by the parties or their counsel, was duly exhibited as Ex. C-1 and even written statement was filed plaintiff Suresh Pal and his father Mahavir Singh and their statement was also recorded before the Court, which all prove that it was with the consent of the parties that a consent decree dated 15.09.1982 was passed.

Learned senior counsel for the respondents has further submitted that the Courts below have rightly held that the plaintiff/appellant could not prove that any fraud is played by defendant Nos. 1 to 5 and, therefore, the suit was rightly dismissed.

It is next argued that the impugned decree did not grant the ownership right for the first time as it is the case of the respondents that they have purchased the property from the earlier owner Dhumni Devi on payment of Rs. 13,000/- i.e. @ Rs. 1,000- per acre as per full payment agreement and since the plaintiff started interfering with the possession by denying the oral agreement, the compromise was effected between the parties and, therefore, it is not that for the first time by the impugned decree, rights were created, hence, it does not require any registration.

Learned senior counsel for the respondents has relied upon a judgment of Hon'ble Supreme Court in **1976 AIR (Supreme Court) 712 Union of India vs. M/s Chaturbhai M. Patel and Co.** to submit that fraud like any other charge of criminal offence, whether made in civil or criminal proceedings, must be established beyond reasonable doubt, however suspicious may be circumstances, however strange the coincidences and however grave the doubts, suspicion alone cannot take the place of proof. It is, thus, argued that in the absence of any such specific plea taken in the plaint, the Courts below have rightly dismissed the suit of the appellant.

It is next argued that once the plaintiff himself was a party to the impugned decree passed in civil suit No. 151 of 1982, he cannot re-agitate the same on the ground that the same is not registered. Reliance is placed upon a judgment of Hon'ble Supreme Court in **2020 (4) Scale 554 Pawan Kumar Arya and others vs. Ravi Kumar Arya and others** to submit that a consent decree cannot be challenged in a separate suit on the ground of non-registration.

Learned senior counsel for the respondents has relied upon **2006 AIR (Supreme Court) 269 Uday Shankar Triyar vs. Ram Kalewar Prasad & Anr.**, to submit that in terms of Order 3 Rule 4 CPC, Hon'ble Supreme Court has held that mere fact that the *Vakalatnama*/Power of attorney, executed by the party, in favour of the advocate is not filed, will not result in automatic rejection of the case as it is a curable defect and the Court should give time to the parties to correct the same.

Learned senior counsel has relied upon a judgment of this Court in **1991 (1) RRR 401 Smt. Kapoor Kaur vs. Dalip Singh and others**, wherein it has been held that under Order 23 Rule 3 CPC, when the validity of a consent decree, suffered in a Court, is under challenge, mere fact that the advocate was junior to the advocate, who presented the plaint on behalf of the plaintiff, it cannot be held that the consent decree is obtained by producing a wrong person. It is further observed by this Court that when a consent decree is suffered in a Court, the parties engage counsel, who may be one party or one group, mere fact that while issuing summons to the defendants, in short span of time the consent decree was suffered, is not a ground to hold that the decree is obtained by producing a wrong person.

Learned senior counsel for the respondents has further relied upon a judgment of Hon'ble Supreme Court in **1991 AIR (Supreme Court) 2234 Bryam Pestonji Gariwala vs. Union Bank of India**, wherein it is held that under Order

23 Rule 3, 1 and Order 3 Rule 1 CPC, a compromise, if signed by a counsel for the parties and not signed by the parties in person, followed by a decree, is valid as the expression in writing and signed by the parties under Order 23 Rule 3 includes duly authorized representative and counsel. Similar view is taken by Hon'ble Supreme Court in **2003 (4) RCR (Civil) 606 Jineshwardas (D) through LRs and Ors. vs. Smt. Jagrani and Anr.** that under Order 23 Rule 3 CPC, when a compromise decree is passed, the parties delegate their powers to the counsel and permit them to act on their behalf.

Learned senior counsel for the respondent has further argued that after the impugned decree was passed, even defendant No. 6 Mahavir Singh and his son plaintiff Suresh Pal have exchanged 16 Kanals of land on 21.06.1985, on the basis of which mutation No. 3165 was sanctioned. It is further submitted that the Courts below have considered this aspect of the case that the plaintiff himself has acted upon the impugned decree, when they have exchanged certain land in Khewat/Khatauni No. 240/441, Khasra No. 65/7-8, measuring 60 Kanals from defendant Nos. 1 to 5. The Courts below have recorded a finding that these Khasra numbers are part of the decree passed in civil suit No. 152 of 1982 and the mutation was sanctioned on 14.06.1985. Learned senior counsel has, thus, argued that once plaintiff Suresh Pal and his father Mahavir Singh have acted upon this decree in the year 1985 when the mutation was sanctioned, they came to know about this decree on the said date and, therefore, the present suit, which instituted on 14.01.1991 is time barred as the plaintiff had the knowledge of impugned decree and the case set up in the plaint that the plaintiff came to know about the decree just before filing of the suit is factually incorrect.

Learned senior counsel for the respondents has further relied upon a judgment of this Court in **2009 (3) RCR (Civil) 672 Kurdia vs. Rameshwar Dass and others**, wherein it has been held that where a suit for possession is filed after

limitation under Article 58 of the Limitation Act, the same will be time barred. Reliance is also placed upon a judgment of Hon'ble Supreme Court in **2009 (12) SCC 454 Shyam Lal @ Kuldeep vs. Sanjeev Kumar and others** to submit that it has been held that under Article 58 of the Limitation Act, the limitation to file a suit to challenge a Will and mutation is 03 years and in the absence of any specific pleading or evidence regarding date when the plaintiff has derived knowledge, the suit is liable to be held as time barred. Learned senior counsel has, thus, argued that in the present case, it has come in evidence that from the date when the exchange took place between plaintiff Suresh Pal and his father Mahavri Singh with appellants/defendant Nos. 1 to 5, when the mutation No. 3165 was sanctioned on 14.06.1985, the plaintiff came to know about the decree and, therefore, the suit is time barred.

Learned senior counsel for the respondents has next argued that the suit filed by the appellant/plaintiff being an independent suit is not maintainable to challenge a compromise decree in terms of Order 23 Rule 3-A CPC. Learned senior counsel has relied upon **2022 (2) RCR (Civil) 188 M/s Sree Surya Developers and Promoters vs. N. Sailesh Prasad and Ors.** to submit that a party to a consent decree, which is based on a compromise, cannot challenge the said decree in an independent suit and has to approach the same Court, where the compromise was recorded and the separate suit challenging the consent decree is not maintainable under Order 23 Rule 3-A CPC. Reliance is also placed upon another judgment of Hon'ble Supreme Court in **2021 (3) RCR (Civil) 406 R. Janakiammal vs. S. K. Kumarasamy (Deceased) through Legal Representatives and Others**, wherein a similar view has been taken by Hon'ble Supreme Court.

Learned senior counsel for the respondents has further argued that the trial Court has recorded as finding that as per mutation Ex. D-17, it is clear

that mutation No. 3165 was sanctioned regarding transfer of the land comprised in Khewat No. 240/441, Khasra No. 65, Killa No. 7/8 measuring 16M.

Learned senior counsel further submitted that the suit was barred by limitation as it is clear from jamabandi for the years 1985-86 Ex. D-22 that defendant Nos. 1 to 5 are in possession of the suit land after part of the land was exchanged, therefore, the plaintiff and his father had every knowledge of passing of the impugned decree and the suit, which is filed in the year 1991 after a lapse of four years, is barred by limitation. Learned senior counsel has relied upon a judgment of this Court in **1994 PLJ 171 Jagjit Singh vs. Pritam Singh** to submit that a suit for declaration to challenge a decree can be filed within 03 years from the date of decree or from the date of knowledge. It is, thus, argued that the trial Court has rightly held that the suit is barred by limitation.

Learned senior counsel for the respondents has further argued that even after filing of the present suit, defendant No. 6 Mahavir Singh has filed a separate suit challenging the impugned decree, which was dismissed by the trial Court, however, the lower appellate Court allowed the appeal and the defendants (respondents herein) have filed a regular second appeal bearing RSA-1230-2006, which is tagged with the present appeal and the arguments in both the appeals have been heard together.

In reply, learned senior counsel for the appellant has submitted in the earlier suit, no notice or summon was issued to the plaintiff or his father Mahavir Singh and since defendant Nos. 1 to 5 had no pre-existing right, in the absence of the registration, the decree is inadmissible in evidence. Learned senior counsel has relied upon a judgment of Hon'ble Supreme Court in **1994 (1) RRR 253 S. P. Changalvaraya Naidu vs. Jagannath** to submit that where the decree is obtained by playing fraud upon the Court, it is a fraud in the eyes of law and can be challenged in any Court, even in collateral proceedings. Learned counsel for

the appellant has also relied upon another judgments of Hon'ble Supreme Court in **2013 (1) RCR (Civil) 821 Smt. Badami (Deceased) By her L.R. vs. Bhali** and **2010 (2) RCR (Civil) 206 Santosh vs. Jagat Ram & Anr.**, wherein a similar view has been taken by Hon'ble Supreme Court.

After hearing the learned senior counsels for the parties and going through the findings of the Courts below as well as record and on re-appreciation of evidence, I find no merit in the present appeal, for the following reasons:

(a) Both the Courts below have recorded a finding of fact that after the impugned decree was passed on 15.09.1982 in civil suit No. 151/1982, the same was acted upon by both the parties, i.e. the plaintiff and his father Mahavir Singh and defendant Nos. 1 to 5, as an exchange took place between them and mutation number 3165 Ex. D-17 was sanctioned regarding transfer of 16 Marlas of land, which is part of the impugned decree. The Courts below have also recorded a finding that as per subsequent jamabandis and khasra girdawari Ex. D-23 to Ex. D-27, after passing of the impugned decree dated 15.09.1982 till Rabi 1999, it is the defendants who are in continuous possession of the suit land. The Courts below have also recorded a finding that the plaintiff has failed to place on record a single document to prove that they ever remained in possession of the suit land, therefore, this Court finds no reason to disagree with the concurrent findings recorded by both the Courts below that it is defendant Nos. 1 to 5, who are in possession of the suit land since 15.09.1982.

(b) It is also admitted case of the parties that respondents/defendant Nos. 1 to 5 installed two tubewells in the name of Som Chand and Bhagwan Dass by getting electricity connection released from the Electricity Department and they are irrigating the land from these two tubewells. The appellant, though, has tried to set up a case that the said tubewells were installed after filing of the suit when he was dispossessed, however, this plea falls flat from the fact as electricity

bills pertaining to the year 1988 Ex. D-6 to Ex. D-9 and receipts Ex. D-10 to D-13 show that the electricity connection was in existence even in the year 1988 and, therefore, the plaintiff miserably failed to prove that at any point of time, he was in possession of the suit land.

(c) Once it is concurrently held that by both the Courts below, on the basis of the documentary evidence, that it is defendant Nos. 1 to 5, who continuously remained in possession of the suit land, the suit which was instituted by the appellant/plaintiff on 14.01.1991, is rightly held to be time barred by both the Courts below as it was filed three years after the period of limitation despite having knowledge to the impugned decree. In this regard, reliance is rightly placed by learned senior counsel for the respondents upon the judgments in **Jagjit Singh's** case (supra) and **Kurdia's** case (supra). Accordingly, the findings of the Courts below in this regard are upheld and **Question of Law** under point No. (c) is decided in favour of respondents/defendant Nos. 1 to 5.

(d) The Courts below have also recorded a finding that the plaintiff has failed to prove that the impugned decree is an outcome of fraud and misrepresentation as in the absence of any specific pleading in the plaint meeting the requirement of Order 6 Rule 4 CPC qua taking the ground of fraud or misrepresentation by giving complete details and particulars, in view of the judgment of Hon'ble Supreme Court in **Chaturbhai M. Patel's** case (supra) holding that fraud like any other charge of criminal offence, whether made in civil or criminal proceedings, must be established beyond reasonable doubt, even if the circumstances are suspicious and strange coincidences are there, therefore, in the absence of any evidence led by the plaintiff that any fraud was played, the findings of the Courts below are upheld.

Even otherwise, the second suit filed under Order 23 Rule 3-A CPC, challenging the compromise decree, in which plaintiff's father Mahavir Singh

was a party, is not maintainable. Reliance is placed upon the judgment of Hon'ble Supreme Court in *Sree Surya Developers and Promoters*'s case (supra) and *R. Janakiammal*'s case (supra) as it well settled proposition of law that a party to a consent decree, which is based on a compromise, cannot challenge the said decree in an independent suit and has to approach the same Court, where the compromise was recorded, therefore, the instant suit is not maintainable under Order 23 Rule 3-A CPC. Accordingly, **Question of Law** under point No. (a) is decided in favour of the respondents/defendant Nos. 1 to 5.

(e) The arguments raised by learned senior counsel for the appellant that since the respondents/defendant Nos. 1 to 5 were strangers and they acquired the right over the suit property for the first time and the value of the land being more than Rs. 100/-, the impugned decree requires compulsory registration under Section 17 of the Registration Act, is also without any basis.

It is the case of the respondents/ defendant Nos. 1 to 5 that by way of an oral agreement, they had paid a total sum of Rs. 13,000/- towards entire sale consideration of 13 acres of land @ Rs. 1,000/- per acre, however, since the agreement was an oral one, they could not file any suit for specific performance and it is only after the death of Dhumni Devi in the year 1978, from whom the defendant Nos. 1 to 5 purchased the land, plaintiff Suresh Pal and his father Mahavir Singh started interfering in the possession of the suit land and a compromise Ex. C-1 was entered into between the parties, which was followed by passing of the impugned decree in accordance with law, therefore, the Courts below have rightly held that the impugned decree did not confer the title in favour of defendant Nos. 1 to 5 for the first time, rather it is the respondents/defendant Nos. 1 to 5, who have acknowledged the compromise by way of filing suit, followed by written statement and statement of plaintiff Suresh Pal and his father Mahavir Singh on oath, therefore, the impugned decree does

not require registration. Accordingly, **Question of Law** under point No. (b) is also decided in favour of the respondents/defendant Nos. 1 to 5.

It is worth noticing that both the Courts below have rightly held that mere fact that a counsel representing the plaintiff in the previous suit and the counsel representing the defendants were from the same office is not a suspicious ground as laid down by Hon’ble Supreme Court in *Uday Shankar Triyar’s* case (supra) and *Bryam Pestonji Gariwala’s* case (supra).

Accordingly, for the reasons given in the foregoing paragraphs, the present appeal is dismissed and the judgment and decree dated 15.01.2000, passed by the Civil Judge (Jr. Divn.), Karnal/trial Court as well as the judgment and decree dated 11.03.2002, passed by the lower appellate Court, are upheld.

It is worth noticing that connected appeal bearing RSA-1230-2006, filed by Om Chand and others/defendant Nos. 1 to 5 stands allowed, vide order of the even date.

05.09.2022
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>