

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

**RSA No. 4685 of 1999 (O&M)
Reserved on : 01.08.2022
Pronounced on : 09.08.2022**

Ram Karan

...Appellant

Versus

Gugan

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr.Amit Jain, Sr. Advocate with
Mr. Varun Parkash, Advocate
for the appellant.

Mr. Harsh Aggarwal, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J.

Challenge in this appeal, filed by the appellant/defendant, is laid to the judgment and decree dated 19.11.1999 passed by the lower appellate Court, vide which the judgment and decree dated 28.05.1999 passed by the trial Court dismissing the suit of the respondent/plaintiff, was set aside and the suit of the respondent/plaintiff was decreed.

Brief facts of the case are that respondent/plaintiff Gugan was owner in possession of the suit land as described in the plaint. On the suit land, 50 *Shisham* trees were standing and a tubewell was also installed, having electricity connection from HSEB. It is further pleaded in the plaint that on 30.07.1986, the Civil Court passed a judgment and decree in favour of Ram Karan (who was plaintiff in that suit) against Gugan (who was

defendant in that suit) and the property in dispute was transferred in the name of Ram Karan. It is further pleaded in the plaint that the judgment and decree is an outcome of fraud, misrepresentation, coercion and is liable to be set aside and simultaneously, it is also prayed that the mutation No. 1506, vide which the aforesaid decree was incorporated in the revenue records be also set aside. As per the amended plaint, it was further prayed that a decree of possession be also granted in favour of the defendant. The suit was contested by the defendant on the ground that Gugan was represented by two advocates, who had filed written statement on his behalf and thereafter, Gugan appeared before the Court and made a statement on oath admitting the contents of the plaint filed in the said suit and thereafter the suit was decreed. The grounds taken in the plaint regarding fraud or misrepresentation were denied and a case was set up that after Ram Karan died on 26.11.1985, mother of the plaintiff performed *Karewa* marriage with Gugan as per custom in the family and, therefore, subsequently the suit was filed, in which Gugan appeared and admitted the claim and accordingly, the decree was passed in accordance with law, hence, there was no fraud or coercion.

The trial Court framed the following issues:

1. Whether the plaintiff is owner in possession of the land in dispute ? OPP
2. Whether the judgment and decree dated 30.7.86 passed in civil suit No. 393 of 26.7.86 is illegal, null and void and is liable to be set aside, as alleged in the plaint ? OPP
3. Whether the plaintiff is estopped by his own act and conduct from filing the suit ? OPD
4. Whether the suit is bad for principles of res judicata ?

OPD

5. Whether the suit is beyond limitation ? OPD

6. Relief.

Thereafter, one additional issue was also framed, which is as under:

“1. Whether the report of the Local Commissioner is liable to be set aside as alleged ? OPD

In order to give brief description of the Exhibits and statements, para 4 of the judgment of the trial Court is reproduced below:

“4. To substantiate his case, plaintiff examined PW-1 Kuldeep singh, Record Keeper, PW-2 Ramesh Kumar, Clerk H.S.E,B, PW-3 Hukam Chand, Teacher, Boys Senior Secondary school, PW-4 Sheela Devi, PW-5 Zile Singh and closed the oral evidence. In the documentary evidence, plaintiff produced EX.P.1 Special power of attorney, Ex.P1 Admission Form of Ram Karan (Ex.P .1 was marked Twice), EX.PM2 school Leaving Certificate of Ram Karan, Ex.P3 Certified copy of judgment dated 30-7.86, Ex.P-4 " be set aside/as allege d?UPA. certified copy of decree sheet dated 30.7.86, Ex.P5 certified copy of jamabandi for the year 1985-86, Ex,P6 certified copy of mutation No.1506 and closed the evidence. On the other hand defendant examined himself as Dw-1, Partap Singh as DW-2, Mahender Singh as DW-3, Dharampal as DW-4 Rajbir singh as DW-5, Mool Chand as DW-6 and closed the oral evidence. In the documentary evidence defendant produced Ex.D1 jamabandi for the year 4985-86 Ex.D2 copy of plaint, Ex D3 decree sheet. Ex.D.4 mutation No.1506 Ex.D5 copy of orcer dated 12.5.94, EX,D6 copy of application u/s 151 CPC Ex.D7 reply of the application; Ex.D8 statement of Gugan, Ex.D9 copy of order u/s 151 CPC, Ex.D10 Copy of

khasra Girdawari Ex.D-11 Jamabandi for the year 1990-91, Ex D-12 to D-14 Voter list, Ex. D-15 Khasra Girdawari, Ex. 16 Voter List and closed the evidence. No evidence was given in rebuttal.”

Thereafter, the trial Court, vide its judgment and decree dated 28.05.1999 dismissed the suit. On the question of fraud and misrepresentation, the trial Court recorded a finding that though in para 2(i) of the plaint, it is pleaded that the thumb impressions of Gugan were obtained on account of purchasing a tractor and later on the same were misused for obtaining the decree dated 30.07.1986, however, Gugan failed to appear in the witness box to substantiate and support the said allegations of fraud. The trial Court also recorded a finding that Sheela, daughter of Gugan, appeared as PW-4 and from her statement, the ingredients of fraud and misrepresentation are not proved. The trial Court also recorded a finding that Gugan was represented in the earlier suit by one Rajbir Singh, Advocate, who appeared as DW-5 and deposed that written statement was drafted on the asking of Gugan and after explaining the contents of the same, Gugan had put his thumb impressions on the same. This witness also proved the thumb impressions of Gugan on the Vakalatnama/Power of attorney, which was executed in his favour as an Advocate. This witness also testified that Gugan appeared in the Court on 26.07.1986 and put his signatures on his statement before the Court, Ex. D-4/2 as well as on the Vakalatnama, Ex. DW-5/3. Since a weak effort was made to say that some other person was produced instead of Gugan, the trial Court recorded a finding that no handwriting and finger print expert was examined to prove the fact that the thumb impression on the Vakalatnama, written statement, statement recorded in the Court were not of Gugan, therefore, the trial Court

held that it was Gugan, who executed all the documents, engaged his lawyer DW-5 Rajbir Singh, put his thumb impressions as well as appeared in the Court for making the statement on oath.

The second point in para 2(ii) of the plaint that Ram Karan was a minor was also decided against the plaintiff on the ground that the decree cannot be set aside, even if a minor is the beneficiary of the same.

Under issue No. 3, a finding is recorded by the trial Court that there is no estoppel and under issue No. 4, it was held that the suit is not barred by *res judicata*. Under issue No. 5, the trial Court held that the suit is not maintainable and dismissed the same.

The lower appellate Court reversed the findings recorded by the trial Court by holding that the consent decree was passed under compulsion i.e. coercion and duress exerted by plaintiff Ram Karan and his mother. It is also held that Gugan suffered the decree under the coercion of mother of Ram Karan, who is widow of Jeet Ram, brother of Gugan and further held that since Ram Karan had no pre-existing right, the decree is liable to be set aside. Under the issue of limitation, it was held that the same is within limitation from the date of knowledge. Hence, the present appeal.

The present appeal is pending since 1999 and *status quo*, regarding possession, was ordered, which is continuing. On 20.11.2004, this appeal was admitted by framing the following substantial questions of law:

1. Whether in the facts and circumstances of the case, the appellants have a pre-existing right in the property in dispute ?
2. Whether in view of the latest judgment of the Apex Court in 2002 (1) P. L. J. 59 Bachan Singh

vs. Kartar Singh, a consent decree requires registration ?

3. Whether a decree which has been acted upon can be set aside on the ground of non-registration ?

Learned senior counsel for the appellant has argued that the trial Court has rightly recorded the finding that respondent/plaintiff has filed the suit through his daughter and since he failed to appear before the trial Court, therefore, the element of fraud, misrepresentation or coercion could not be proved. It is further argued that the appellant/defendant has led voluminous evidence, especially from the statement of DW-5 Rajbir Singh, Advocate, who represented Gugan in the earlier suit, the thumb impressions of Gugan on Vakalatnam Ex. DW-5/3 and written statement Ex. DW-5/1 are proved before the Court. This witness also proved the statement of Gugan, which was recorded in the earlier suit as Ex. DW-4/2, wherein he admitted that he has no objection if the suit filed by Ram Karan is decreed.

Learned senior counsel has relied upon a judgment of this Court in **2012 (5) RCR (Civil) 628, Lichhmi Devi and other vs. Bharpal and other**, wherein it is held that the family settlement did not require compulsory registration and in a subsequent suit, the family settlement is not required to be proved again as a consent decree in a subsequent suit can be challenged on the ground of fraud but not on the ground that facts pleaded in the suit leading to the consent decree were incorrect and the Court in a subsequent suit cannot go behind the earlier decree, which has settled the rights of the parties to find out whether the earlier consent decree was passed on right or wrong facts. Therefore, it is argued that the suit is barred by estoppel and *res judicata*.

Learned senior counsel has next argued that the trial Court has

rightly decided issue No. 1 by drawing an adverse inference against plaintiff Gugan that he has failed to appear in the witness box and only his daughter Sheela appeared as a witness to corroborate the version of the plaintiff/respondent and, therefore, the fraud and misrepresentation could not be proved as PW-4 Sheela had no personal knowledge of the same, which could have been deposed by Gugan himself. It is further submitted that two applications were filed by the appellant for securing the personal appearance of the respondent/plaintiff but the counsel representing him made a statement that he is unable to come, however, no medical documents were produced to substantiate this claim, which reflects that Gugan still was a consenting party to the impugned decree and never voluntarily challenged the same.

Learned senior counsel has referred to the statement of PW-4 Sheela, who appeared as SPA of Gugan and stated that she has no personal knowledge of the facts when the earlier decree was passed. In cross examination, this witness has admitted that Gugan is real brother of Jeet Ram and Gugan has given special power of attorney Ex. PA dated 11.04.1996.

Learned senior counsel has referred to a judgment of Hon'ble Supreme Court rendered in **2005 (1) RCR (Civil) 240, Janki Vashdeo Bhojwani vs. Indusind Bank Ltd.**, wherein it is held that statement and cross examination of power of attorney on behalf of plaintiff or defendant is not permissible with regard to deposition as a witness in the matters of personal knowledge of executant and such a witness can appear only in his own capacity to depose regarding the acts done by him. It is, thus, submitted that the power of attorney, who was appointed ten years after the impugned

decree, cannot depose about any personal knowledge, so as to prove the allegations of fraud and misrepresentation.

Learned senior counsel has next argued that the finding recorded by the lower appellate Court that the suit is not barred by limitation is erroneous. It is argued that the decree was passed on 30.07.1986, whereas the suit was filed on 14.06.1994. Reference is made to mutation Ex. P-4 to submit that in this mutation, the sanctioning authority/Tehsildar has made an endorsement that at the time of sanctioning of the mutation, Gugan himself along with Daryam Singh Numberdar and defendant Ram Karan appeared in person and verified the decree as well as handing over the possession. It is further submitted that this mutation was initially entered into by the Patwari on 30.07.1986 and was verified by the Kanungo in November, 1987 and was finally sanctioned on 08.11.1987. It is further submitted that Gugan had the knowledge of sanctioning of the mutation and even his power of attorney i.e. his daughter Sheela came to know about the same when the mutation was sanctioned as ownership is reflected in the subsequent jamabandis. Therefore, it is argued that the lower appellate Court has taken a wrong view that the limitation to challenge a decree is 12 years and in this regard, reliance is placed upon a judgment of this Court in **2018 (4) RCR (Civil) 163, Naranjan Singh vs. State of Punjab & others.**

It is next argued that under issue No. 4, the lower appellate Court has wrongly held that Gugan, under a compulsion or under coercion, has suffered the impugned decree. It is submitted that Ram Karan was the only male child of the family as one daughter of Gugan had died and second daughter Sheela was already married in different village and after performing *Karewa* marriage with the mother of Ram Karan, Gugan was

treated as his father and it was the appellant/defendant, who was taking care of them. Therefore, it is proved on record that Gugan has suffered the decree on his own free will and without any coercion and once the lower appellate Court has itself recorded a finding that the decree was not an outcome of a fraud or misrepresentation, therefore the consent decree did not require any registration and the Courts below have wrongly held in this regard.

Learned senior counsel has further relied upon a judgment of this Court rendered in **2003 (1) RCR (Civil) 657, Jagdish vs. Ram Karan, 2019 (2) Law Herald 1634, Dharambir Singh vs. Braham Parkash** as well as judgment of Hon'ble Supreme Court in **2006 (4) RCR (Civil) 303, Som Dev and others vs. Rati Ram and another** to submit that a decree based on the admission of a party does not require any registration. It is argued that once the appellant/defendant has proved that there was a family settlement between Ram Karan and Gugan, the lower appellate Court patently erred in going beyond the impugned decree to record a finding contrary to that and holding that it requires registration, therefore, the finding recorded by the lower appellate Court is erroneous.

Learned senior counsel has further agued under issue No. 5 that once a finding is recorded by both the Courts below that respondent/plaintiff Gugan, through his daughter Sheela/SPA, who appeared as PW-4, has failed to prove that the impugned decree is an outcome of fraud and misrepresentation, therefore, the lower appellate Court wrongly held that the suit is maintainable is patently erroneous as a separate suit challenging the earlier consent decree is maintainable only on the ground of fraud and misrepresentation.

Learned senior counsel has relied upon an application dated

26.09.1993 Ex. D-6, which was filed by the plaintiff for setting aside the impugned consent decree but was withdrawn on 08.06.1996, vide order Ex. D-8/D-9 and thereafter, the present suit was filed, therefore, the second suit is not maintainable as neither any fraud nor any misrepresentation was proved. Reliance, in this regard, is place upon a judgment of this Court in **2000 (1) RCR (Civil) 122, Parveen Kumar vs. Shiv Ram alias Sheo Ram, 2007 (2) RCR (Civil) 62, Rajjo vs. Jawahar Singh** as well as a judgment of Hon'ble Supreme Court in **2006 (3) RCR (Civil) 479, Pushpaj Devi Bhagat (D) Th. LR. Smt. Sadhna Rai vs. Rajinder Singh & Ors.**

Learned senior counsel further argued that once a consent decree is passed on the basis of the settlement of the parties, recorded by the Court of law, it is a valid decree and cannot be challenged by way of filing a separate suit.

It is lastly argued that the finding of the lower appellate Court under issue No. 6 is that the appellant/defendant was minor at the time of passing of the impugned decree, therefore, the decree is liable to be set aside is erroneous as the appellant has produced on record his school transfer certificate Ex. P-4/1 showing that his date of birth is 18.09.1967, hence, the finding recorded by the Court below that his date of birth is 26.09.1969 is erroneous. Even otherwise, a decree passed in favour of a minor is merely voidable and no benefit can be granted to the respondent.

In reply, learned counsel for the respondent/plaintiff has argued that Gugan was married to one Bhim Kaur and out of this wedlock, PW-4 Sheela was born, therefore, in the absence of any specific date when the *Karewa* marriage was performed with the mother of appellant Ram Karan, the same is not proved.

Learned counsel for the respondent, with regard to allegations of fraud, has argued that the plaint in the earlier suit Ex. D-2 was typed on 24.07.1986 but it was filed on 26.07.1986. Similarly, written statement Ex. D-5/1 was drafted on 25.07.1986 and was filed on 26.07.1986 when Gugan lastly appeared in the Court without there being any summons and made his statement Ex. D-5/2 admitting the claim of appellant Ram Karan.

Learned counsel for the respondent has further argued that in the settlement suit, there was a declaration regarding ownership of the property of Gugan on the basis of family settlement, which allegedly took place two years prior to filing of the suit i.e. somewhere in 1984, whereas no such family settlement took place as no evidence in this regard has come on record in the earlier suit or in the present suit.

It is next argued that the date of birth of Ram Karan is 26.09.1969 and he was about 17 years of age at the time of filing of the suit, which was not filed by appointing any guardian and even as per earlier plaint, if the family settlement had taken place two years prior to filing of the suit, the age of Ram Karan was about 15 years only.

Learned counsel for the respondent has further argued that there was no pre-existing right in favour of Ram Karan, therefore, the impugned decree Ex. P-3 was compulsorily registrable and in the absence of registration, it gives no right to Ram Karan.

It is also argued that the earlier suit filed by Ram Karan Ex.DW-2 was a suit simplicitor for declaration without any alternative relief and, therefore, the same is not maintainable, though the impugned decree was passed.

It is lastly argued that advocates of Gugan and Ram Karan, in a

collusive manner, got the impugned decree without the knowledge of Gugan. It is also argued that the mutation Ex. P-6 was sanctioned on 10.11.1987 i.e. after 1 ½ years, which shows that it was kept concealed for a long time. It is further submitted that there was a tampering in the birth record of Ram Karan as in the birth record, his date of birth is 26.09.1969 and in the school certificate, it is 26.09.1967 and there is a cutting, as per record presented by DW-4 Dharampal.

Learned counsel for the respondent has relied upon **2010 (2) RCR (Civil) 206, Santosh vs. Jagat Ram & Anr.** to submit that the Hon'ble Supreme Court has held that if a decree is obtained by fraud, there will be no limitation to challenge the same.

Learned counsel for the respondent has relied upon a judgment of Hon'ble Supreme Court rendered in **2013 (1) RCR (Civil) 821, Smt. Badami (Deceased) By her L. R. vs. Bhali** to submit that it is held that where a family settlement is set up ignoring the right of the daughter, it is not a bona fide settlement. It is also held that where the decree is obtained by a fraud, the same can be set aside.

It is further submitted that the decree suffered by Gugan was not an outcome of his free will, in view of Section 111 of the Indian Evidence Act as Ram Karan was in a dominating position over Gugan. It is, thus, argued that the suit is within limitation under Section 17 of the Limitation Act from the date of knowledge of the fraudulent decree.

Learned counsel for the respondent has further relied upon a recent judgment of Hon'ble Supreme Court in **2022 (5) SCC Online 743, Sree Surya Developers & Promoters vs. N. Sailesh Prasad** to submit that it is held that that the proper remedy to challenge a consent decree that it is not

lawful is to approach the same Court, which has passed the compromise/consent decree and since the respondent on earlier occasion has filed an application before the same Court, which was later on withdrawn, **the present suit is not maintainable.**

Learned counsel for the respondent has relied upon judgment of Hon'ble Supreme Court rendered in **2003 AIR (Supreme Court) 4351, Krishna Mohal Kul alias Nani Charan Kul and another vs. Pratima Maity and others** to submit that the onus to prove the validity of a document is on the person in whom the confidence is reposed i.e. the dominant party.

After hearing learned counsel for the parties and going through the record as well as the findings of both the Courts below, I find merit in the present appeal, for the following reasons:

- (a) The challenge in the suit is to the impugned judgment and decree dated 30.07.1986, in which appellant Ram Karan was the plaintiff and respondent Gugan was the defendant. The grounds taken in the plaint to challenge the said decree are fraud, misrepresentation and coercion exerted by appellant Ram Karan and his mother upon Gugan. At the first instance, it is worth noticing that Gugan has filed an application dated 26.09.1993 Ex. D-6 before the same Court for setting aside the impugned judgment and decree, however, later on, the same was withdrawn on 08.06.1996, vide order Ex. D-8 and Ex. D-9, therefore, in terms of Order 23 Rule 3A CPC and in view of the judgment in **Sree Surya's case (supra)**, the present suit is not maintainable, as rightly

held by the trial Court.

- (b) Even otherwise, Gugan has never entered into the witness box to depose that the impugned decree was an outcome of fraud, misrepresentation played up to him or he was coerced by Ram Karan or his mother, who had performed *Karewa* marriage with Gugan. Despite an application moved by the appellant to produce Gugan as a witness in the Court, he was never produced and, therefore, an adverse presumption is to be drawn against him that he never challenged the impugned judgment and decree on the ground of fraud, misrepresentation and coercion, especially in view of the fact that even on an earlier occasion, he had moved an application in the year 1993 in the original suit, however, the same was withdrawn subsequently.
- (c) The trial Court has rightly recorded a finding of fact that the suit is instituted by Gugan through his special power of attorney/PW-4 Sheela, who while appearing as her own witness, stated that she had no personal knowledge about the impugned decree as she was appointed special power of attorney 10 years after passing of the impugned decree, therefore, in view of the judgment in ***Janki Vashdeo Bhojwan's*** case (supra), the statement of PW-4 Sheela can be read only with regard to her personal knowledge in her own capacity and cannot be read with regard to her knowledge of any fraud, misrepresentation

or coercion exerted by appellant Ram Karan or his mother. The trial Court has also recorded a finding of fact that the decree was passed on 30.07.1986 and mutation Ex. P-4 was entered by the Patwari on 30.07.1986 and was verified by the Kanungo in November, 1987 and was finally sanctioned by the Tehsildar on 08.11.1987. The endorsement on this mutation Ex. P-4 reflects that when it was sanctioned, the Tehsildar has verified the fact about the decree from Gugan, who appeared in person along with a local Numberdar, therefore, this fact came to the notice of Gugan that even in the revenue record, the mutation has been sanctioned and in the subsequent jamabandis, the ownership was transferred in the name of Ram Karan.

- (d) In the facts and circumstances of the case, the present suit was for declaration without a specific prayer of possession, therefore, the limitation is 03 years, as per Article 58 of the Limitation Act and the lower appellate Court has wrongly held that under Section 17 of the Limitation Act, the limitation is from the date of knowledge of fraudulent decree. The date of knowledge of Gugan is apparent from the date when he appeared before the trial Court, filed admission written statement, followed by his statement on oath as well as the fact that he appeared before Tehsildar in person, when mutation was sanctioned and also another fact that he himself filed

an application Ex. D-6 on 26.09.1993 praying for setting aside the impugned decree, which was withdrawn on 08.06.1996, after 03 years, vide Ex. D-8 and D-9, therefore, the finding recorded by the lower appellate Court that the instant suit is within limitation from the date of knowledge of decree is apparently erroneous as the suit was filed on 14.06.1994.

- (e) The finding recorded by the lower appellate Court that the impugned decree is liable to be set aside on account of non-registration or account of no pre-existing right is apparently erroneous as it is beyond the scope of the second civil suit to adjudicate upon the facts of the earlier suit as the scope in the second suit is only on the ground of fraud, misrepresentation or coercion, which otherwise could not be proved by the respondent/plaintiff as he never entered into the witness box to support the same and only her special power of attorney/his daughter Sheela appeared and stated that she was appointed SPA after 10 years of passing the impugned decree and could not prove the element of fraud. Even otherwise, the appellant has successfully proved that no fraud was played with Guran as he as represented by a counsel, who appeared as DW-5, proved the admission written statement, his Vakalatnama, his statement recorded by the Court on oath as Ex. DW-5/1 to Ex. DW-5/3. From the statement

as well as the evidence of this witness, it is apparent that no fraud was played with Gugan, when he appeared before the trial Court admitting the claim of appellant Ram Karan followed by the impugned decree, therefore, in view of the judgment of *Parveen Kumar's case* (supra), *Rajjo's case* (supra) and *Pushpaj Devi Bhagat's case* (supra), the findings of the lower appellate Court are not sustainable.

- (f) There is no dispute with regard to the judgments relied upon by learned counsel for the respondent/plaintiff in *Santosh's case* (supra) that if a decree is obtained by fraud, misrepresentation, there will be no limitation to challenge the same, however, once the element of fraud is not proved, the said judgment is distinguishable on facts of the case.
- (g) Even otherwise, there is nothing on record to show that the mother of appellant Ram Karan was in such a dominating position to coerce Gugan to suffer the impugned decree in favour of Ram Karan, rather the case of the appellant is that since he was the only male child and PW-4 Sheela was already married, he along with his mother, who had performed *Karewa* marriage with Gugan, were treating Gugan as father and husband, respectively and were taking care of him.
- (h) The arguments raised by learned counsel for the respondent that at the time when the decree was passed,

Ram Karan was a minor, is of no avail as the trial Court has rightly held that he was not minor at the time of filing of suit as his date of birth is 26.09.1967.

Accordingly, all the three questions of law, framed by this Court at the time of issuing notice of motion on 22.11.2004, are answered in favour of appellant Ram Karan, as under point No. 1, it is held that in view of *Sree Surya's case* (supra), a subsequent suit is barred under Order 23 Rule 3A CPC, except on the ground of fraud and the plaintiff cannot claim as right on the basis of pre-existing right in a subsequent suit. Under point No. 2, in view of the judgments cited above, it is held that a consent decree does not require any registration and cannot be set aside in a subsequent suit on the ground of non-registration and under point No. 3, the decree dated 30.07.1986, duly acted upon and incorporated in the revenue record challenged by way of filing a separate suit instituted on 14.06.1994 is barred by limitation under Article 58 and cannot be challenged.

Therefore, for the reasons recorded above, the impugned judgment and decree dated 19.11.1999 passed by the lower appellate Court is set aside and that of the trial Court is upheld.

09.08.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No