

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RSA No.4825-2015

Date of Decision : 25.04.2022

Sabha Chand

...Appellant

Versus

Balbir Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr.Amit Jain, Advocate
for the appellant

Mr.Rajinder Goel, Advocate
for the respondent

ANIL KSHETARPAL, J (ORAL):

While assailing the correctness of concurrent findings of fact recorded by the Courts below, the plaintiff has filed the present appeal. It is not in dispute that the plaintiff is issueless being a bachelor. He suffered a compromise decree in favour of his nephew (brother's son) on 19.03.2007 before Permanent Lok Adalat, Gurgaon. The compromise decree was also registered with the Sub-Registrar on 22.06.2007.

The plaintiff filed the suit claiming that the aforesaid compromise decree is result of fraud. Both the courts on appreciation of evidence have found that the plaintiff failed to prove the fraud. Further, the decree passed is not a consent decree in terms of Order 12 Rule 6 of the Code of Civil Procedure, 1908. In fact, it is a decree passed on the basis of settlement between the parties as a written compromise deed Ex.D6 was filed. A separate suit for challenging the said compromise decree is not maintainable in view of the bar to the maintainability of suit under Order

XXIII Rule 3-A of CPC, which is extracted as under:

Bar to Suit:-*No suit shall lie to set aside a decree on the ground that the compromise on which the decree is based was not lawful.*

The first Appellate Court has also held that the suit itself is not maintainable while relying upon the judgment passed in ***Pushpa Devi Bhagat (D) th.LR Sadhna Rai vs. Rajinder Singh, 2006(3) RCR 480.***

Learned counsel representing the appellant though made sincere attempt, however, failed to draw the attention of the Court to any substantial error.

No ground for interference is made out.

Dismissed.

(ANIL KSHETARPAL)
JUDGE

25.04.2022

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No