

RA-RS-9-C-2008 (O&M)
in RSA-1747-2005 and
other connected case 1 2023:PHHC:161812

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.RA-RS-9-C-2008 (O&M)
in
RSA-1747-2005

K.K.Puri (since deceased) through his LR
....Appellant

Versus

Krishna Puri and others
..Respondents

2.COCP-1708-2013

Smt. Sudarshan Puri
....Petitioner

Versus

Chander Mukhi Sharma
..Respondent

Date of decision: 12.12.2023
Reserved on : 05.12.2023

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Anupam Gupta, Senior Advocate
 with Mr. Sukhpal Singh, Mr. Bhavnik Mehta, and
 Mr. Gautam Pathania, Advocates
 for the applicant/appellant(s)

Mr.S.K.Garg Narwana, Senior Advocate
with Mr. Vishal Garg Narwana, Mr. Mukul Ahuja and
Mr. Sunil Garg, Advocates, for the non-applicant/
respondents

Mr. Suman Jain and Mr. Man Mohan, Advocates
for the respondent No.4 to 9 (in COCP-1708-2013)

ANIL KSHETARPAL, J

1. With the consent of the learned counsel representing the parties, this order shall dispose of two cases i.e. RA-RS-9-C-2008 in RSA-1747-2005 and COCP no.1708 of 2013.

2. By a detailed judgment running into 11 pages, the High Court on 17.09.2007, upheld the concurrent findings of fact arrived at by the courts below, resulting in dismissal of the appeal. Now, review of the aforesaid judgment has been sought by the appellant.

3. Heard the learned senior counsel representing the parties at length and with their able assistance perused the paperbook.

4. Learned senior counsel representing the review applicant while drawing the attention of the Court to Ex.D1 submits that the aforesaid document is not an affidavit but it is a relinquishment deed transferring rights in the immovable property. The aforesaid document is unregistered and therefore, it does not result in the transfer of the property. He further contended that Ex.D1 is not signed by Sh.Krishan Kumar and on a careful glance over the document, it is evident that signatures of the applicant have been forged.

5. On the other hand, the learned senior counsel representing the respondents submits that two previous suits filed by the appellant have been dismissed and Sh.K.K.Puri never denied his signatures but contested at the time of the arguments. It is further

contended that Ex.D1 is a writing executed between the parties and therefore, this court should not review the judgment.

6. First and foremost, while deciding the review application, the court is required to examine its scope. Section 114 of the Code of Civil Procedure, 1908 (hereinafter referred to as ‘CPC’) enables any person considering himself aggrieved to apply for a review of the judgment. Order XLVII Rule 1 CPC delineates the scope of the review application. It is evident that the review is permissible under Order XLVII Rule 1 CPC on one the following eventualities:-

- i) discovery of new and important matter or evidence, which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made.
- ii) On account of some mistake or error apparent on the face of the record.
- iii) For any other sufficient reason.

7. It is well settled that a mere possibility of two views on the subject matter is not a ground for seeking review. Unless the error is self evident or apparent, the Court while hearing the review application, is not expected to interfere. The review proceeding is not a rehearing of the original matter and the power of review shall

not be confused with the appellate power, which enables a superior court to correct all the errors committed by a subordinate court. In this case, the first argument of the learned counsel is with regard to the interpretation of the document dated 19.01.1962, executed by the appellant-late Sh.Krishan Kumar Puri alongwith his two sisters. In the aforesaid document, all the three children acknowledged that their mother late Smt. Tara Puri is the owner of the property. The question, “whether the aforesaid document is an affidavit or not” is a matter of interpretation. While dismissing the plaintiff’s suit, the trial court, the First Appellate Court and the Second Appellate Court have concluded that the aforesaid affidavit is a family settlement. The matter falls within the domain of interpretation of the document and this Court does not find that the error is self evident or apparent on the face of the record.

8. The second argument of the learned counsel is with respect to registration. On a careful reading of the detailed judgment passed by the High Court, it is evident that the judgment passed in **Kale and others vs. Deputy Director Consolidation and others AIR 1976 SC 807** has been relied upon by the court to come to a conclusion that the aforesaid document is not a relinquishment deed but a memorandum of the family settlement. It is well settled that even if two views are possible on a subject matter, still the court is not expected to interfere while exercising its review jurisdiction.

9. The last argument of the learned senior counsel also does not have substance as the aforesaid argument does not fall within the scope of the error apparent on the face of the record because all the three courts have held that late Sh.Krishan Kumar Puri signed the document. On a careful reading of the judgments passed by all the three courts, it is evident that the plaintiff's previous suit to challenge the conveyance deed, issued by the Chandigarh Administration, in favour of Smt. Tara Puri, was challenged by the plaintiff by filing a civil suit, which was dismissed in default on 13.05.1968, and the second suit is barred under Order IX Rule 9 CPC. During her lifetime, Smt. Tara Puri also filed a suit against Sh. Krishan Kumar Puri. Moreover, the conveyance deed was issued in favour of Smt. Tara Puri on the basis of a document in the year 1962 whereas the plaintiff filed a suit on 21.03.1997. It has also been held by all the three courts that the aforesaid family settlement has already been acted upon and the suit filed by the plaintiff for partition of property, without challenging the conveyance deed or family settlement, is not maintainable.

10. Thus, finding no merit, the review application is dismissed.

11. COCP-1708-2013 has been filed alleging the violation of an interlocutory order passed on 09.08.2012, while directing the

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subsequent vendees of the respondent not to disturb the possession of the review applicant in the annexed portion.

12. Keeping in view the facts of this case, the learned counsel representing the petitioner has prayed for passing an appropriate order.

13. In the opinion of this Court, once the review application has been dismissed, further proceedings in the contempt petition are required to be dropped. Accordingly, the contempt petition is also disposed of.

14. All the pending miscellaneous applications, if any, are also disposed of.

12.12.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)
JUDGE**