



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No.2369 of 2019 (O&M)
Date of Decision : 09.05.2024

Aslo Deen and Others

....Appellants

VERSUS

Suleman and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ranjit Saini, Advocate for the appellants.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred against the judgments and decrees dated 05.07.2014 and 13.12.2018 passed by the Trial Court and First Appellate Court respectively.

2. The brief facts relevant to the present case are that Sukra alias Sukar Deen i.e. father of the plaintiff-appellants and the defendant-respondents was owner in possession of the suit land and he died 08 months prior to filing of the suit leaving behind the parties to the suit as his legal heirs. It was averred in the plaint that the defendant-respondents in connivance with each other played fraud with the plaintiff-appellants and filed a suit alleging a family settlement. A consent decree was passed in Civil Suit No.241 dated 11.08.2006. The said decree was challenged in the present suit. It was further averred in the plaint that the defendant-respondents had manipulated and signed/thumb marked the plaint in the earlier suit themselves with the help of their accomplice. On notice, the suit



was contested by the defendant-respondents. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiffs are entitled to declaration to the effect that they are owners in equal shares of land measuring 25 Kanal 5 Marla being $\frac{1}{2}$ share out of total land measuring 50 Kanal 11 Marla ? OPP
2. Whether the plaintiffs are in joint possession alongwith the defendants in the suit land ? OPP
3. Whether the judgment and decree dated 18.12.2006 in case No.241/11.08.2006 and consequent mutation entries are wrong, illegal, null and void and not binding on the rights of plaintiffs ? OPP
4. Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for ? OPP
5. Whether the present suit is legally not maintainable in the present form ? OPD
6. Whether the plaintiffs have no locus standi to file and maintain the present suit ? OPD
7. Whether the plaintiffs have no locus standi to file and maintain the present suit ? OPD
8. Relief.

3. The Trial Court dismissed the suit. The appeal of the plaintiff-appellants was also dismissed by the First Appellate Court. Hence, the present regular second appeal.

4. Learned counsel for the plaintiff-appellants would contend that it has come on the record that the thumb impressions on the consent decree



were not of the plaintiff-appellants. He, however, has fairly conceded that a statement was made by the counsel for the plaintiff-appellants before the First Appellate Court stating that they were not assailing the Civil Court decree dated 18.12.2006 on the ground of apportionment of the property to the legal heirs and the nature thereof. He, however, states that the decree was a result of a fraud.

5. Heard.

6. In the present case a consent decree was passed on 18.12.2006 by which the father apportioned the property amongst his children as under :

Sr. No.	Name	Share
1.	Aslo Deen (Plaintiff-appellant No.1)	8 Kanals 10 Marlas
2.	Roshan (Plaintiff-appellant No.2)	7 Kanals 14 Marlas
3.	Gulam Deen (Plaintiff-appellant No.3)	8 Kanals 0 Marla
4.	Suleman (Defendant-respondent No.1)	10 Kanals 0 Marla
5.	Wali Deen (Defendant-respondent No.2)	8 Kanals 03 Marla
6.	Lal Deen (Defendant-respondent No.3)	7 Kanals 14 Marlas

7. A statement was made by the counsel for the plaintiff-appellants before the First Appellate Court fairly conceding that they did not assail the Civil Court decree dated 18.12.2006 on the ground of apportionment of the property to the legal heirs and the nature thereof. In view of the statement made by the counsel for the plaintiff-appellants before the First Appellate Court, which is not disputed by learned counsel for the plaintiff-appellants before this Court, there does not appear to be any ground to interfere with the judgments and decrees passed by both the Courts. The



property has been divided equally amongst the plaintiff-appellants and the defendant-respondents. It is time to give a quietus to the present litigation as the parties have all got a fair share.

8. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

09.05.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO