

142 RA-RS-26-2024 in
RSA-5428-2015

**INDERJIT SINGH AND OTHERS
VS
RAM PIARI (DECEASED) THROUGH LRS. & ORS.**

Present: Mr. Sandeep Bansal, Advocate
for the review applicants/appellants.

This application seeking review of judgment dated 09.05.2024 has been filed by the appellants. The learned counsel representing the applicants submits that this court has not adverted to the aspect of fraud played by the defendants while obtaining judgment and decree passed in the previous round on 20.12.2021, which in appeal was affirmed by the First Appellate Court on 14.08.2002.

This Court has considered the submissions of the learned counsel representing the applicants.

Undoubtedly, the appellants while filing the suit have claimed that the previous judgment was obtained by fraud, however, the trial Court settled the following issues:-

- “1. Whether plaintiffs are owner in possession of suit land as prayed for? OPP*
- 2. Whether impugned order passed by Consolidation Officer/Settlement Officer and impugned judgment passed by learned Civil Judge (JR. Div.), is illegal, null and void? OPP*
- 3. Whether plaintiff is entitled to declaration as prayed for? OPP*
- 4. Whether plaintiff is entitled to permanent injunction as prayed for? OPP*
- 5. Whether suit of the plaintiff is not maintainable in the present form? OPD*
- 6. Whether plaintiff has no locus-standi to file the present suit? OPD*
- 7. Whether suit of plaintiff be dismissed U/S 35A CPC? OPD*
- 8. Relief.”*

As is evident, there was no specific issue on the ground that in the previous suit, the judgment and decree was obtained by fraud. The trial Court dismissed the plaintiff's suit on the ground that the previous suit filed by the respondent was decreed, which in appeal was affirmed by the First Appellate Court. When the appellants filed appeal against the judgment of the trial Court, the Appellate Court found that the plaintiff has failed to give any particular of fraud or misrepresentation.

It is evident that the fraud is required to be proved beyond reasonable doubt. The learned counsel representing the applicant is only referring to oral evidence, which has been reproduced at page 6 of the grounds of appeal. It is evident that the appellants were not only party to the previous suit, but they also contested the same. After having lost in the first round of litigation, the scope of interference in the judgment and decree passed in the previous suit between the parties, is very limited.

In this case, the appellants have failed to prove the fraud.

Hence, no ground to review is made out.

Dismissed accordingly.

July 08, 2024

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**(ANIL KSHETARPAL)
JUDGE**