

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Revision No. 2749 of 2021

Paramjit Kaur and Others
... Petitioner(s)

Versus

Parvinder Singh and Others
... Respondent(s)

AND

2. Civil Revision No. 2754 of 2021 (O&M)

Paramjit Kaur and Others
... Petitioner(s)

Versus

Parvinder Singh and Others
... Respondent(s)

DATE OF DECISION: 04.03.2024

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vikas Singh, Advocate
for the petitioner(s).

Mr. Akshit Aggarwal, Advocate
for respondent No.1 to 3.

Anil Kshetarpal, J.

1. These two revision petitions have been filed by the petitioners (the plaintiffs) assailing the correctness of two detailed orders passed by the Trial Court while allowing two different applications filed under Order IX Rule 13 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) for setting aside the *ex parte* decree.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The petitioners filed a civil suit for grant of decree of declaration that the sale deed executed by

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defendant No.4 in favour of defendant No.1 to 3 on 25.05.2009 with respect to the land measuring 96 kanals and 15 marlas, is illegal. Gurvinder Singh was impleaded as defendant No.2. In fact, grandmother (Surjit Kaur) along with her two grand children were impleaded as defendant No.1 to 3. In the aforesaid suit, the defendants entered into appearance. However, subsequently, their Advocate stopped appearing and it resulted in *ex parte* judgment and decree dated 21.02.2015. Two different applications were filed to set aside the *ex parte* judgment and decree. Defendant No.2 (Gurvinder Singh) claimed that he was a minor and without appointing any guardian on his behalf, the Trial Court proceeded *ex parte* against him and ultimately passed the decree. Defendant No.1 to 3 filed a separate application claiming that they became aware of the *ex parte* judgment and decree from defendant No.2. Both the applications were allowed by the Trial Court. It was found that defendant No.2 was a minor and he was not represented by a *Guardian-ad litem*. In fact, he was reflected in the memo of parties as an adult.

3. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book along with the requisitioned record.

4. The learned counsel representing the petitioners contends that the birth certificate (Ex.P2) has been manipulated by the defendants in order to secure a favourable order. He further submits that the birth certificate has been issued in the year 2011 after getting an entry made in the office of the Chief Registrar, Births and Deaths, Punjab, in the same year. He further submits that the application for setting aside the *ex parte* judgment and decree was filed after a passage of nearly five months from the date of decree, whereas the application is required to be filed within a period of 30 days.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. The petitioners have not led any evidence to prove that the birth certificate issued by the competent authority is erroneous. Merely because the date of birth has been got registered in the year 2011 is not sufficient to

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discard the certificate. The petitioners were required to rebut the evidence led by the respondents.

7. In any case, the Trial Court has found that the respondents have not been given a proper opportunity to contest the case. The dispute is with regard to nearly more than 12 acres of agricultural land. They purchased the property vide a registered sale deed which was decreed illegal by virtue of an *ex parte* decree. In these circumstances, the respondents have been granted an opportunity to contest the case on merits. The aforesaid conclusion drawn by the Trial Court does not suffer from any material error.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned orders. Hence, both the revision petitions are dismissed.

9. The miscellaneous application(s) pending, if any, in both the revision petitions shall stand disposed of.

**(Anil Kshetarpal)
Judge**

March 01, 2024

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No