



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-1798-1992 (O&M)

Reserved on :- 15.10.2025

Pronounced on :-27.10.2025

Jagdish Chander

... Appellant

Versus

Jai Gopal and Another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Ashwani Kumar Chopra, Senior Advocate, with
Mr. Brahmjot Singh Nahar, Advocate,
for the appellant.

Mr. Rajeev Kataria, Advocate, with
Ms. Neelam Chaudhary, Advocate,
for the respondents.

VIRINDER AGGARWAL, J.

The appellant/plaintiff, aggrieved by the judgment and decree dated 28th May 1992 passed by the learned Additional District Judge, Ferozepur, in Civil Appeal No. 80 of 1992, whereby the well-reasoned judgment and decree dated 19th January 1989 of the learned Sub-Judge IIIrd Class, Fazilka, in Case No. 293-A-I of 23rd/27th May 1987, RBA-112-1 of 26th February 1991, titled “**Thakur Dass vs. Jai Gopal and Another**”, was erroneously reversed, most respectfully invokes the jurisdiction of this Court under Section 41 of the Punjab Courts Act, 1918 by way of the present Regular Second Appeal (here-in-after to be referred ‘RSA’), seeking



restoration of the decree passed by the learned Trial Court and appropriate redress for the substantial injustice suffered.

1.1. It is respectfully submitted that the impugned judgment and decree are manifestly perverse, being founded upon fundamental errors of law and a grossly erroneous evaluation of evidence, resulting in a palpable miscarriage of justice. In these circumstances, the appellant humbly prays for the intervention of this Court to set aside the impugned judgment and decree and restore the lawful and well-reasoned decree of the learned Trial Court.

2. For clarity and convenience, the parties shall hereinafter be referred to as the *plaintiff* and the *defendants*, consistent with their respective positions before the learned Trial Court. The salient facts leading to the present proceedings are summarized below:-

“The plaintiff and Defendant No. 2 are real brothers, while Defendant No. 1 is their nephew. The plaintiffs and Defendant No. 2 jointly purchased the house bearing Municipal Committee No. 840, Arya Samaj Chowk, Fazilka, under a sale deed dated 7.11.1968. The defendants, acting in collusion, subsequently filed Civil Suit No. 398/1983, claiming ownership of the house by adverse possession. A consent decree dated 23.5.1984 was obtained by the defendants through fraud and undue influence.

The plaintiff, elderly and physically handicapped, along with his widowed daughter, Shanti Devi, was subjected to coercion and confinement by the defendants. On 29.10.1983, the defendants produced pre-drafted documents and blank



papers, which they forced the plaintiff to sign under threats, including threats to his life and misuse of signatures purportedly obtained from his brothers.

Fearing for their safety, the plaintiff and his daughter temporarily relocated to Delhi until April 1984. Upon returning, the defendants presented an agreement, affidavit, and purported arbitration award bearing the plaintiff's signatures, claiming they were executed on the blank papers of October 1983. The plaintiff was coerced into making a court statement under misrepresentation and threats, unaware of the defendants' claims.

The plaintiff discovered the fraudulent scheme on 28.5.1984 when his son, Jagdish Chander, attempted to obtain certified copies of the decree but was threatened by the defendants. The plaintiffs assert that they are the lawful owners of the property, have received their lawful share of profits, and that Jai Gopal and Jugal Kishore never possessed the property.

A subsequent application under Section 151 CPC to set aside the decree was dismissed on procedural grounds. The present suit seeks declaration of ownership and protection of rights in the property, arising from the defendants' fraudulent and coercive actions."

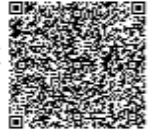
3. Upon service of notice, the defendants/respondents appeared and filed their written statement, submitting the plaintiff's suit is misconceived and devoid of merit. The plaintiff and Defendant No. 2 had purchased only a vacant plot, whereas the defendants took possession in



1969, to the exclusion of the plaintiff, and subsequently raised construction thereon. The decree under challenge arises from voluntary admissions made by the plaintiff and cannot be said to have been procured by fraud, misrepresentation, or undue influence. Allegations of threats, coercion, or confinement are expressly denied. It is further submitted that on 29.10.1983, the plaintiff and defendants executed a formal agreement in the presence of witnesses, whereby the plaintiff relinquished his ownership rights and acknowledged the defendants' ownership of the property. The plaintiff also consented to refer certain disputes between the parties to arbitration. The suit in dispute was instituted on 16.11.1983, and the plaintiff, after availing eight opportunities, filed his written statement on 15.5.1984, wherein he expressly admitted the defendants' claims. The plaintiff was fully aware of the implications of his admissions, and no coercion or undue influence was exercised. In light of the above, the defendants respectfully submit that the plaintiff's suit is wholly unsustainable and deserves to be dismissed with costs.

4. The plaintiff, by way of a detailed replication, reiterated and reaffirmed all material allegations set forth in the plaint, while specifically traversing and refuting the defense raised by the respondents. Upon careful examination of the pleadings, documentary evidence, and oral submissions, this Court has framed the following issues for determination, to enable a clear and focused adjudication of the competing claims and contentions:-

1. Whether there is sufficient cause to set aside the judgment and decree dated 23.05.1984 ? OPA
2. Whether the suit has not been properly valued for the purpose of court fee and jurisdiction ? OPA



3. Whether the defendants are entitled to the Special compensatory costs? If so, to what amount? OPD

4. Whether the suit is within limitation OPA

5. Relief

5. Both parties was granted ample opportunity to adduce evidence in support of their respective claims. Following the conclusion of the trial and upon hearing the arguments of learned counsel, the learned Sub-Judge IIIrd Class, Fazilka, rendered a decree in favor of the appellant/plaintiff. Aggrieved by this decision, the respondents/appellants filed an appeal before the learned Additional District Judge, Ferozepur, which was allowed, thereby reversing the considered and well-reasoned judgment and decree of the learned Trial Court. In its judgment, the learned Appellate Court observed that *“the trial court erred in law and on facts by failing to apply principles on fraud, coercion, and undue influence. The plaintiff has not proven that the consent decree of 23.5.1984 was obtained improperly; it was voluntarily suffered. Issue No. 1 is accordingly decided against the plaintiff. The suit is not barred by limitation, and the defendants are not entitled to special costs. The appeal is allowed, the plaintiff’s suit is dismissed with costs, and the trial court’s judgment is set aside.”*

6. Assailing the judgment and decree of the learned First Appellate Court, the appellant has instituted the present RSA, which was duly admitted. Notices were served upon the respondents, who entered appearances through their learned counsel, and the records of the lower courts were requisitioned for meticulous scrutiny and adjudication of the matter.



7. I have heard the learned counsel at length and have carefully considered their submissions in conjunction with the pleadings, documentary and oral evidence, as well as the findings and reasoning recorded by the learned lower Courts. The record has been examined to ascertain '*whether the impugned judgments and decrees suffer from any legal infirmity or error warranting this Court's interference*'?

8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of **Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157**, followed by the judgments in the case of **Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317** and **Satender and others V/s Saroj and others, 2022(12) Scale 92**. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. The learned counsel for the appellant submits that the gravamen of the appellant's case is that the decree dated 23.05.1984 was not the result of free and informed consent but was procured through undue influence, coercion, misrepresentation, and fraud. The Trial Court, upon a comprehensive evaluation of the pleadings and evidence, rightly concluded that the decree stood vitiated by these taints. Such a finding is pivotal, for a decree infected by fraud cannot constitute a valid foundation for dispossession or extinguishment of proprietary rights.



9.1. It is further contended that the appellant's complaint dated 14.12.1983 (Ex. PW8/2), addressed to the Judicial Magistrate, Fazilka, explicitly records threats by the defendants and a request for police protection. This contemporaneous and independent document corroborates the appellant's testimony, evidencing coercive conduct antecedent to the consent decree. The proximity in time and specificity of the allegations in Ex. PW8/2 clearly demonstrate that the so-called consent was obtained under duress rather than by voluntary relinquishment. The appellant's subsequent procedural efforts including the application under Section 151 CPC filed on 03.06.1985, though dismissed on maintainability grounds manifest a consistent and *bona fide* endeavour to challenge the impugned decree. Such conduct must be viewed as a continuous pursuit of legal redress rather than opportunistic litigation. The procedural dismissal does not diminish the substantive merits of the fraud claim, thereby warranting full appellate scrutiny of the Trial Court's factual findings.

9.2. The learned counsel further submits that the learned Trial Court's decision to set aside the decree of 23.05.1984 was reasoned, evidence-based, and legally sound. Relying upon witness testimony, contemporaneous records, and the overall factual matrix, the Trial Court correctly held that the decree was vitiated by undue influence, coercion, misrepresentation, and fraud. Conversely, the First Appellate Court fell into grave error by holding that the Trial Court lacked jurisdiction to examine the circumstances surrounding the antecedent suit and its pleadings. It is well settled that a consent decree is not immune from challenge when procured through illegality or fraud. By insulating such an instrument from scrutiny,



the Appellate Court adopted an impermissibly narrow approach, contrary to the settled maxim “*fraus et jus nunquam*” *cohabitant*, fraud vitiates every solemn act.

9.3. It is further argued that the learned Appellate Court’s failure to properly evaluate the appellant’s testimony and the corroborative evidence of supporting witnesses detailing threats, confinement, and execution of blank papers and pre-drafted documents resulted in a miscarriage of justice. The cumulative effect of this evidence, supported by contemporaneous filings, establishes a credible chain of coercive acts which the Appellate Court disregarded. It is a settled principle of law that fraud, coercion, or misrepresentation renders consent voidable and any decree so obtained liable to be set aside. This principle, rooted in equity and public policy, safeguards the sanctity of judicial proceedings. A decree tainted by fraud cannot be permitted to stand as a foundation for dispossession or as a bar to legitimate claims.

9.4. In light of the foregoing, it is submitted that the impugned judgment of the First Appellate Court suffers from grave legal and factual infirmities. The detailed and well-reasoned findings of the Trial Court are fully borne out by the record. Accordingly, the appellant prays that this Hon’ble Court set aside the impugned appellate judgment, restore the Trial Court’s decree, and grant such consequential reliefs as may be necessary to protect the appellant’s proprietary rights and uphold the principles of equity and fair play.



10. The learned counsel appearing on behalf of the respondents respectfully submits the following propositions in rebuttal to the arguments advanced by the learned counsel for the appellant:-

10.1. The present RSA assails the judgment and decree dated 28.05.1992 passed by the learned Additional District Judge, Ferozepur, whereby the decree of the learned Civil Judge, Fazilka, dated 12.03.1991, was rightly reversed. The impugned appellate judgment is a reasoned and well-considered decision, founded on a thorough examination of pleadings, evidence, and documents on record. It does not suffer from any legal or factual infirmity warranting interference under Section 100 CPC. It is submitted that the appellant seeks to invalidate the consent decree dated 23.05.1984, which was passed on the basis of his own written statement and voluntary oral admission before the trial court. The said decree merely formalized the terms already settled between the parties under the agreement dated 29.10.1983 (Ex.D1), which unequivocally delineated their respective proprietary rights. The decree, therefore, was the legitimate and voluntary culmination of a pre-existing understanding, duly executed and acknowledged by the parties. The appellant's allegations that the consent decree was procured by fraud, misrepresentation, undue influence, or coercion are wholly unfounded and unsupported by credible evidence. The record clearly establishes that the appellant voluntarily filed the written statement on 15.05.1984, appeared before the court, and unequivocally admitted the respondents' ownership and possession. His contemporaneous admissions before the judicial forum categorically negate any claim of duress or lack of free will.



10.2. It is further submitted that the agreement dated 29.10.1983 (Ex.D1) was executed with full knowledge, comprehension, and consent of all concerned parties, including the appellant. It was attested by two independent and respectable witnesses Dr. Y.N. Soni and Shri Sunder Lal thus ensuring its authenticity and voluntariness. The agreement expressly recognized the respondents' ownership and construction rights in the property, leaving no scope for ambiguity or subsequent dispute. The subsequent conduct of the appellant reinforces this inference. After executing the agreement and making the requisite admissions, the appellant withdrew his application for certified copies on 30.05.1984 (Ex.PW6/A), signifying acceptance of the decree. His later attempt to challenge the decree through an application under Section 151 CPC, filed on 03.06.1986, was rightly dismissed as not maintainable. The present suit, instituted on 22.05.1987 nearly three years after the decree betrays an afterthought rather than a bona fide grievance.

10.3. The learned Trial Court erred in reappraising the settled merits of a consent decree and disregarding the appellant's voluntary admissions. In contrast, the learned First Appellate Court correctly held that the decree dated 23.05.1984 was lawful, binding, and free from any vitiating factors. It rightly recognized that all essential elements of a valid consent decree free consent, knowledge, and absence of coercion or misrepresentation stood fully satisfied. It is a well-settled principle that consent decrees possess finality and can be set aside only upon conclusive proof of fraud, coercion, or undue influence. No such proof exists in the instant case. The appellant, having voluntarily acknowledged the respondents' rights, cannot now be



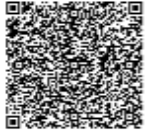
permitted to resile from his solemn admissions. To allow the appeal would undermine the sanctity of judicial admissions, the finality of decrees, and the doctrine of *interest "reipublicae ut sit finis litium"* that there must be an end to litigation.

10.4. Accordingly, the consent decree dated 23.05.1984, being the product of the appellant's free will and informed consent, is fully valid and enforceable in law. The impugned judgment of the learned Additional District Judge, Ferozepur, upholding its legality and authenticity, is correct both in fact and law. The present appeal is, therefore, devoid of merit and deserves to be dismissed with costs.

CONCLUSION

11. The judgment and decree dated 23.05.1984 constitutes a consent decree, rendered based on the written statement filed by the appellant/plaintiff and further statement made by the appellant/plaintiff in Court, wherein the claim of the plaintiff in that suit was admitted. Accordingly, the decree was passed in accordance with Order 12, Rule 6 of the CPC, and cannot be treated as a compromise decree under Order 23, Rule 3 of the CPC. Consequently, the bar created under Rule 3-A of Order 23 CPC is not attracted. It is, however, well-settled law that a decree obtained on the basis of consent cannot be assailed merely on the ground that the consent was erroneous or incorrect; such a decree can be challenged only on grounds of fraud, misrepresentation, coercion, or similar vitiating factors.

11.1 This Court, in **Murti vs. Jai Ram and Others, 2011 (3) PLR 459**, has held as follows:-



“12. As regards plea that family settlement is not proved, the said question cannot be reopened in the instant subsequent suit. Consent decree can be challenged in subsequent suit on the ground of fraud and misrepresentation etc. and not on the ground that facts pleaded in the previous suit culminating in the impugned consent decree were erroneous and incorrect. The said question stands determined and concluded by the consent decree and cannot be readjudicated and would be barred by principle of res judicata in the subsequent suit.”

12. It is evident that the judgment and decree in question could only have been challenged by the appellant-plaintiff on the ground that it was the result of coercion, as specifically pleaded in Para 4 of the plaint. The learned First Appellate Court has reproduced the relevant portion of sub-para (c) of Para 4, wherein the appellant-plaintiff alleged that on 15.05.1984, the defendants approached him and presented an affidavit, agreement, and pre-drafted document dated 29.10.1983 bearing his signatures, and purportedly pressured him to make a statement in Court, threatening that failure to do so would result in misuse of those documents to deprive him of his property and deposited funds.

12.1. Even if these allegations are accepted as true, the documents in question, at most, could have affected the appellant's ownership of the property. By voluntarily making a statement in Court admitting the respondents' claim, the appellant-plaintiff effectively conceded that he had parted with ownership of the suit property. The pleadings do not demonstrate that the written statement or the Court admission was made to avoid some greater harm or was the result of coercion.

12.3. It is further relevant that the appellant-plaintiff was residing in Delhi with his son at the relevant time and could have disclosed the



respondents' actions compelling him to concede their claim, yet he failed to do so. The respondents examined DW-Vishnu Dutt Sharma Advocate engaged by the appellant-plaintiff to file the written statement in the previous suit, who testified that the written statement was drafted at the appellant's instance, and that he made the Court statement voluntarily, without any threat or coercion.

13. The learned Court rightly observed that the act of the appellant-plaintiff admitting the claim was not hasty; he had taken eight adjournments before filing the written statement. During this period, he could have approached the authorities regarding the purported documents obtained by the respondents, yet he did not. Moreover, the appellant-plaintiff could have clarified the correct position when he appeared in Court, but he failed to do so. In this context, Section 114-e of the Indian Evidence Act, 1872 presumes that judicial and official acts have been regularly performed, a presumption which is rebuttable only by cogent and convincing evidence. As has been held in **Maruti vs. Jai Ram's case (supra)**, relevant extract of the same is as under:-

“10. Impugned consent decree was passed not only on the basis of admission made in the written statement in the previous suit, but also on the basis of statement recorded in the Court in the previous suit. Statement made in the Court has authenticity and sanctity. The said statement cannot be said to be result of fraud and misrepresentation. In the statement made in the Court in the previous suit, plaintiffs herein (who were defendants in the previous suit) admitted the claim of defendant herein, who was plaintiff in the said suit. The said statement was recorded in Hindi and was readover and explained to the plaintiffs herein and then they signed/thumb marked



the same. Consequently, it cannot be said that the said statement was made by plaintiffs herein for execution of power of attorney.”

13.1. In the present case, the advocate engaged by the appellant-plaintiff unequivocally deposed that the written statement was held and Court admission was made of his own free will. The appellant-plaintiff bore the heavy onus of proving that these acts were the result of coercion, which he has failed to discharge. The learned First Appellate Court have correctly concluded that the appellant-plaintiff has not established coercion, and therefore, the judgment and decree obtained by him cannot be set aside on this ground. In view of the foregoing, finding no merit in the appeal, the same is hereby dismissed.

14. Consequent upon the final adjudication of the main case, all pending miscellaneous applications, if any, filed in connection with or arising out of the present proceedings, stand disposed of in view of the decision rendered herein. No further orders or directions are deemed necessary in respect of such applications, and they are accordingly disposed of in the light of the conclusions reached in the main case.

27.10.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No