



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

**Reserved on 07th of April, 2025
Pronounced on 07th July, 2025**

RSA No.1151 of 1994

Santra Devi

....Appellant

Versus

Ramji Lal and others

.....Respondents

RSA No.3844 of 1999

Ramji Lal and another

....Appellants

Versus

Santra

.....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sanjay Mittal, Advocate
for the appellant in RSA-1151-1994 and
for the respondent in RSA-3844-1999.

Mr. Kuldeep Sharma, Advocate
for the appellants in RSA-3844-1999 and
for respondents No.1 to 3 in RSA-1151-1994.

Mr. Pavan Malik, Advocate
for respondents No.4 & 5 in RSA-1151-1994.

PANKAJ JAIN, J.

By way of present judgment, I intend to dispose off afore-captioned two appeals between the same parties, arising out of two separate suits.

2. Rival parties are fighting for the estate left by Dhanna son of Mahadev. RSA No.1151 of 1994 arises out of Civil Suit bearing No.68 of



1982 filed by appellant Santra Devi. RSA No.3844 of 1999 arises out of Civil Suit No.69/02.09.1982 filed by appellant Ramji Lal.

3. Santra Devi claims herself to be adopted daughter of Dhanna and has propounded Will, dated 15.05.1980, claiming it to be executed by Dhanna in her favour. Ramji Lal and others are claiming right to the property of Dhanna on the basis of judgment and decree dated 12.03.1981 and that dated 19.01.1981 suffered by Dhanna in their favour *qua* immoveable property left by him.

4. Santra Devi challenged judgment and decree dated 19.01.1981 passed in Civil Suit No.337/14.06.1980 titled as 'Ramji Lal vs. Dhanna' whereby Dhanna transferred agricultural land in favour of Ramji Lal and others.

5. Civil Suit No.60, dated 02.09.1982 has been filed by Ramji Lal and others against Santra Devi seeking possession of the property in form of a residential house owned by Dhanna son of Mahadev, claiming to have been transferred in their favour by Dhanna vide Civil Decree dated 12.03.1981.

6. In the suit preferred by Santra Devi, both the Courts found that Santra Devi failed to prove herself to be adopted daughter of Dhanna. Courts below further held that judgment and decree suffered by Dhanna in favour of Ramji Lal and others, dated 19.01.1981 was a valid decree and held Ramji Lal and others entitled to succeed to the agricultural land left by Dhanna.



7. The suit filed by Ramji Lal and others claiming possession of the residential house left by Dhanna, stands dismissed. Santra has been held to be a validly adopted daughter of Dhanna and in possession of house in question.

8. Resultantly, there are conflicting findings recorded by the Courts below which are subject matter of present appeals.

9. Before advertng to the merits of the case, it will be apt to refer to the series of *lis* between the parties.

10. From the records of the case, it is discernible that Ramji Lal and others filed Civil Suit No.337/14.06.1980 seeking decree of declaration to the effect that they are owners in possession of agricultural land owned by Dhanna on the strength of oral family settlement dated 15.06.1978. Another Civil Suit bearing No.129 dated 05.03.1981 titled as 'Ramji Lal vs. Dhanna' was also filed claiming right over the residential house. Both the suits were decreed in favour of Ramji Lal and others. Prior to filing of Civil Suit No.337 of 14.06.1980, Santra Devi filed Civil Suit No.324 of 12.06.1980 titled as 'Santra vs. Dhanna' seeking injunction restraining Dhanna from transferring his property in favour of Ramji Lal and others. Initially ad interim *ex parte* injunction was granted in favour of Santra Devi, however, the same was dismissed as withdrawn vide order dated 20.05.1981. The order is on record as Exhibit D-7 in the Civil Suit No.68 of 01.10.1982, out of which RSA No.1151 of 1994 has arisen. She filed application in the suit filed by Ramji Lal and others vs. Dhanna i.e. Civil Suit No.337 of 1980



seeking impleadment as a party. The said application was dismissed vide order dated 19.01.1981. The suit filed by Ramji Lal and others was decreed on the same date. Santra neither preferred any appeal nor filed any revision. The same attained finality.

11. Thereafter, Santra Devi preferred Civil Suit No.201 of 15.06.1981 wherein she impleaded Ramji Lal and Ruda along with Dhanna son of Mahadev as defendants, challenging decree passed in Civil Suit No.337 of 1980 claiming the same to be the result of fraud, misrepresentation and collusion. The said suit was dismissed vide judgment and decree, dated 30.04.1982, holding that during the lifetime of Dhanna, plaintiff has no right to challenge the decree suffered by him. Judgment and decree, dated 30.04.1982 passed in Civil Suit No.201 of 15.06.1981 titled as 'Smt. Santra vs. Ramji Lal' is on record as Exhibit D-5.

12. From the aforesaid facts, it seems that the parties started fighting for the property owned by Dhanna during his lifetime only. The claim of Santra Devi is based upon her being adopted daughter of Dhanna. The said plea raised by Santra Devi, cannot be accepted. Santra Devi failed to lead any cogent evident to prove the adoption. She propounded Will dated 15.05.1980 Exhibit PW-4/A. Perusal thereof reveals that even as per contents of the same she is not an adopted daughter of Dhanna as claimed by her. Though as per the recitals of the Will, it has been stated that Santra Devi is daughter of nephew of Dhanna and is residing with the executant since childhood but at the same time there is a specific recital in the Will



that executant Dhanna has no issue, real or adopted.

Resultantly, this Court finds that the findings recorded by the Courts below in suit filed by Santra Devi to the effect that she failed to prove being adopted daughter of Dhanna, are based upon cogent evidence and need to be sustained. Opposite findings recorded by the Courts below in Civil Suit No.69 of 1982 filed by Ramji Lal regarding possession, cannot be sustained and are hereby reversed.

13. So far as Will dated 15.05.1980 is concerned, the same would have come into effect only after the death of Dhanna. Ramji Lal and others claim that Dhanna transferred his entire estate in their favour by way of Civil Decrees, dated 12.03.1981 and 19.01.1981 respectively, thus, the issue of Will propounded by Santra Devi would have effect on the dispute between the parties only if it can be held that the Civil Court decrees suffered by Dhanna in favour of Ramji Lal and others, are not valid decrees.

14. Counsel for the appellant Santra Devi has relied upon series of precedents to attack the consent decree suffered by Dhanna propounded by Ramji Lal and others on the basis of registration. He relies upon law laid down in the case of **Smt. Ishawpati and others vs. Smt. Chhoto (Since Deceased) Through her Lrs and others, 2024 NCPHHC 133745, Sohan Singh vs. Ambo (deceased) by her Lrs, 2002(2) RCR (Civil) 310, Hardevi vs. Hukam and others, 2006(8) RCR (Civil) 795, Rajni Bajaj and others vs. Ram Piari, 2006(1) RCR (Civil) 153, Chalti Devi and others vs. Rajinder Kumar and another, 2004(1) CurLJ 58, Raj Singh**



alias Ran Singh vs. Smt. Phoolpati and another, 2010(65) RCR (Civil) 415 and Phool Pati and another vs. Ram Singh (Dead) Through Lrs and another, 2015(2) SCC (Civil) 248.

15. The main plank of the plea raised by Mr. Mittal is that since Ramji Lal and others were not related to Dhanna and there was no family comprising of Dhanna and Ramji Lal and his brothers, there is no question of there being any pre-existing right in favour of Ramji Lal and others. Thus, the decree suffered by Dhanna will not bestow any right upon Ramji Lal and others in the absence of registration.

16. Per contra, counsel(s) for the respondents submit that the challenge was raised in the plaint to the judgment and decrees suffered by Dhanna, pleading fraud and misrepresentation. The said pleas could not be proved. Counsel representing Ramji Lal and others submits that the primary contention raised was that Dhanna was kept in illegal custody by Ramji Lal and others. Statement of Dhanna in the proceedings under Section 97 Cr.P.C. has come on record as Exhibit DW-6/A. Dhanna appeared before Sub Divisional Magistrate and stated on Oath that he was residing with his nephews Ramji Lal and others out of his own free will. Counsel draws attention of this Court to submit that the said proceedings were initiated on the application made by non-else but Kishori Lal real father of Santra Devi. He thus submits that plea raised by Santra in the plaint stands falsified and thus challenge raised in the appeal to the concurrent findings of the fact recorded by the Courts below, need not be entertained.



17. Counsel further submits that even during the lifetime of Dhanna, Santra Devi made two unsuccessful attempts to challenge the transfer in favour of Ramji Lal. She having failed in both the attempts and having opted not to prefer any appeals against the orders, fresh suit at her instance was not maintainable.

18. In order to appreciate the argument raised by counsel for the appellant, it will be apt to peruse the pleadings raised in Civil Suit No.337 of 14.06.1980 wherein Dhanna suffered consent decree in favour of Ramji Lal and others. In the said plaint, Ramji Lal and others propounded oral family settlement, dated 15.06.1978. Dhanna appeared and filed written statement admitting the factum of there being family settlement between the parties. So far as relationship between Dhanna and Ramji Lal and others is concerned, pedigree table has come on record. As per the same, Aasa Ram was the common ancestor. Aasa Ram had two sons namely Jeevan and Ghadsa Ram. Jeevan had three sons namely Hanuta, Mangla and Sheobaksh. Ghadsa Ram had one son namely Mangtu. Sheobaksh had a son namely Chander Bhan. Chander Bhan had two sons namely Onkar and Jugal Kishore. Ramji Lal and Rudi are sons of Onkar. Mangtu had a son namely Mahadev. Dhanna is son of Mahadev. Thus, even though Ramji Lal and Rudi are distantly related to Dhanna but it can't be said that they have no relation. Apart from that, Exhibit DW-6/A is the statement of Dhanna on Oath before SDM in proceedings under Section 97 Cr.P.C. on the complaint made by father of Santra Devi namely Kishori Lal that he was residing with



his brother Jugal Kishore and nephews Ramji Lal and Rudmal.

19. The law regarding the family settlement, has been elaborately explained by Supreme Court in the case of **Kale vs. Deputy Director Consolidation, 1976(3) SCC 119** observing as under:

“10. In other words to put the binding effect and the essentials of a family settlement in a concretised form, the matter may be reduced into the form of the following propositions:

- (1) The family settlement must be a bona fide one so as to resolve family disputes and rival claims by a fair and equitable division or allotment of properties between the various members of the family. (2) The said settlement must be voluntary and should not be induced by fraud, coercion or undue influence;
- (3) The family arrangements may be even oral in which case no registration is necessary;
- (4) It is well settled that registration would be necessary only if the terms of the family arrangement are reduced into writing. Here also, a distinction should be made between a document containing the terms and recitals of a family arrangement made under the document and a mere memorandum prepared after the family arrangement had already been made either for the purpose of the record or for information of the court for making necessary mutation. In such a case the memorandum itself does not create or extinguish any rights in immoveable properties and therefore does not fall within the mischief of Section 17 (2) (sic) (Section 17 (1) (b) ?) of the Registration Act and is, therefore, not compulsorily registrable;
- (5) The members who may be parties to the family arrangement must have some antecedent title, claim or interest even a possible claim in the property which is acknowledged by the parties to the settlement. Even if one of the parties to the settlement has not title but under the arrangement the other party relinquishes all its claims or



titles in favour of such a person and acknowledges him to be the sole owners, then the antecedent title must be assumed and the family arrangement will be upheld and the Courts will find no difficulty in giving assent to the same;

(6) Even if bona fide disputes, present or possible, which may not involve legal claims are settled by a bona fide family arrangement which is fair and equitable the family arrangement is final and binding on the parties to the settlement.”

20. Thus, from the facts as recorded hereinabove, in the light of ratio of law laid down by Supreme Court in the case of *Kale vs. Deputy Director Consolidation* (*supra*), it cannot be said that the parties do not constitute family or there could not have been an oral settlement between the parties. Resultantly, the objection raised by counsel for appellant Santra Devi regarding relationship between the parties, cannot be sustained and is hereby rejected.

21. So far as plea regarding non-registration of judgment and decree is concerned, the law has been laid down by Supreme Court in the case of **Bhoop Singh vs. Ram Singh (1995) 5 SCC 709**, observing as under:

“16. We have to view the reach of Clause (vi), which is an exception to sub-section (1), bearing all the aforesaid in mind. We would think that the exception engrafted is meant to cover that decree or order of a Court, including a decree or order expressed to be made on a compromise, which declares the pre-existing right and does not by itself create new right, title or interest in praesenti in immovable property of value of Rs. 100/- or upwards. Any other view would find the mischief of avoidance of registration, which requires payment of stamp duty, embedded in the decree or order.



17. It would, therefore, be the duty of Court to examine in each case whether the parties have preexisting right to the immovable property, or whether under the order or decree of the Court one party having right, title or interest therein agreed or suffered to extinguish the same and created right, title or interest in praesenti in immovable property of the value of Rs. 100/- or upwards in favour of other party for the first time, either by compromise or pretended consent. If latter be the position, the document is compulsorily registerable.

18. The legal position qua Clause (vi) of Section 17(2) can, on the basis of the aforesaid discussion, be summarised as below :

- (1) Compromise decree if bona fide, in the sense that the compromise is not a device to obviate payment of stamp and frustrate the law relating to registration, would not require registration. In a converse situation, it would require registration.
- (2) If the compromise decree were to create for the first time right, title or interest in immovable property of the value of Rs. 100/- upwards in favour of any party to the suit, the decree or order would require registration.
- (3) If the decree were not to attract any of the Clauses of sub-section (1) of Section 17, as was the position in the aforesaid Privy Council and this Court's cases, it is apparent that the decree would not require registration.
- (4) If the decree were not to embody the terms of compromise, as was the position in Lahore case, benefit from the terms of compromise cannot be derived, even if a suit were to be disposed of because of compromise in question.
- (5) If the property dealt with by the decree be not the "subject matter of the suit or proceeding", Clause (vi) of sub-section (2) would not operate, because of the amendment of this clause by Act 21 of 1929, which has its origin in the aforesaid decision of the



Privy Council, according to which the original clause would have been attracted, even if it were to encompass property not litigated.”

22. The aforesaid ratio has been reiterated by Supreme Court in the case of **Mukesh vs. State of Madhya Pradesh, Civil Appeal No.14808 of 2024** observing as under:

“10.1. The judgments in **Mohd Yusuf case (2020) 10 SCC 264** (supra) and Bhoop Singh (supra) were followed by this court in the following subsequent decisions:

(i) **Khushi Ram v. Nawal Singh (2021) 16 SCC 279:**

"30. This Court in *Rajkumar case [Mohd. Yusuf v. Rajkumar, (2020) 10 SCC 264 : (2021) 1 SCC (Civ) 45]* held that since the decree which was sought to be exhibited was with regard to the property which was subject-matter of suit, hence, was not covered by exclusionary clause of Section 17(2)(vi) and decree did not require registration. The issue in the present case is squarely covered by the above judgment. We, thus, conclude that in view of the fact that the consent decree dated 19-8-1991 relates to the subject-matter of the suit, hence it was not required to be registered under Section 17(2)(vi) and was covered by exclusionary clause. Thus, we, answer Question 1 that the consent decree dated 19-8-1991 was not registrable and the courts below have rightly held that the decree did not require registration."

(ii) **Ripudaman Singh v. Tikka Maheshwar Chand (2021) 7 SCC 446**

16. The judgments of this Court in *Bhoop Singh [Bhoop Singh v. Ram Singh, (1995) 5 SCC 709]* and *K. Raghunandan [K. Raghunandan v. Ali Hussain Sabir, (2008) 13 SCC 102]* were found to be inconsistent in an order reported in *Phool Patti v. Ram Singh [Phool Patti v. Ram Singh, (2009) 13 SCC 22]* and the



matter was thus referred to a larger Bench. The larger Bench in the judgment reported as *Phool Patti v. Ram Singh* [*Phool Patti v. Ram Singh*, (2015) 3 SCC 465: (2015) 2 SCC (Civ) 312] did not find inconsistencies between the two judgments.

17. **Bhoop Singh** [*Bhoop Singh v. Ram Singh*, (1995) 5 SCC 709] was a case dealing with both the situations, decree between the parties where the decree-holder does not have any preexisting right in the property and also the situation where decree-holder has a pre-existing right. It was the second situation where the decree-holder has a pre-existing right in the property, it was found that decree does not require registration. In *K. Raghunandan case* [*K. Raghunandan v. Ali Hussain Sabir*, (2008) 13 SCC 102], the dispute was not amongst the family members but between neighbours regarding right over passage. Obviously, none of them had any pre-existing right over the immovable property in question.

18. In view of enunciation of law in Bhoop Singh case [*Bhoop Singh v. Ram Singh*, (1995) 5 SCC 709], we find that the judgment [*Tikka Maheshwar Chand v. Ripudaman Singh*, 2016 SCC OnLine HP 3808] and decree of the High Court holding that the decree requires compulsory registration is erroneous in law. The compromise was between the two brothers consequent to death of their father and no right was being created in praesenti for the first time, thus not requiring compulsory registration. Consequently, the appeal is allowed and the suit is decreed."

Thus, it could be discernible that in order to fall under the exception of Section 17(2)(vi) of the Act, 1908, the following conditions must be satisfied:

- (i) There must be a compromise decree as per the terms of the compromise without any collusion;
- (ii) The compromise decree must pertain to the subject property in the suit; and
- (iii) There must be a pre-existing right over the subject property, and the compromise decree should not create a right afresh."



23. Testing the present case on the afore-stated parameters laid down in binding precedents, it is evident that the right based upon oral family settlement arrived at earlier in time, does not need registration. In both the suits filed by Ramji Lal and others, consent decree was drawn *qua* the subject matter of the suit and not *qua* any property beyond the subject matter thereof. In view thereof, this Court does not find that the rigors of Section 17 of the Registration Act, 1908, can be invoked to non-suit Ramji Lal and others to hold that the decree required compulsory registration. In view thereof, this Court finds that the findings recorded by the Courts below in Civil Suit bearing No.68 of 1982 filed by Santra Devi, need no interference. Resultantly, the appeal preferred by Santra Devi i.e. RSA No.1151 of 1994, is ordered to be dismissed.

24. In the other appeal preferred by Ramji Lal, this Court has already held that the findings recorded by the Courts below regarding Santra Devi being adopted daughter of Dhanna, cannot be sustained and have been reversed. The findings recorded by the Courts below regarding Santra Devi being in established possession of the disputed house for more than 20 years, is also against the record and cannot be sustained. The question of Santra Devi being in possession of house in question during the lifetime of Dhanna, does not arise. The suit was instituted on 02.09.1982 immediately after the death of Dhanna. There being a valid decree dated 12.03.1981 in favour of the plaintiffs, the plaintiffs are entitled to possession of the house in



question.

25. In view thereof, this Court finds that the judgment and decree passed by Courts below in Civil Suit No.69 of 1982 which is subject matter of RSA No.3844 of 1999 cannot be sustained and are hereby set aside.

26. As a sequel of the discussion held herein above, RSA No.3844 of 1999 is allowed. RSA No.1151 of 1994 is ordered to be dismissed.

27. Pending application(s), if any, shall also stand disposed off.

28. A copy of this order be kept on the file of other connected case.

July 07, 2025
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes