



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

**RSA-2171-2019 (O&M)
Decided on : 09.07.2025**

Pawan Kumar and another

..... Appellants

Versus

Dimple Kumar and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. P.K.S.Phoolka, Advocate
for the appellants.

VIKRAM AGGARWAL, J(ORAL)

This is defendants' second appeal against the judgment and decree dated 18.07.2018, passed by the Court of Additional District Judge, Bathinda dismissing the appeal filed by the defendants against the judgment and decree dated 16.05.2012, passed by the Court of Civil Judge (Junior Division), Bathinda vide which the suit for declaration filed by the plaintiff was decreed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3(i). One Kunj Lal had four sons namely Gian Chand, Sadhu Ram, Ashok Kumar and Pawan Kumar. Kunj Lal expired on 14.02.1997 and Gian Chand expired on 19.04.2000. Kunj Lal was owner in possession of five properties bearing No.BV-117, BV-187, BV-174, BVI-206 and BV-116, all situated at Goniana Mandi, Tehsil and District Bathinda (hereinafter referred to as 'the suit properties'). Apart from these five properties, property bearing No.BV-119 was



owned by the four sons of Kunj Lal in equal shares.

3(ii). Dimple Kumar son of Gian Chand son of Kunj Lal instituted a suit against the other three sons of Kunj Lal for declaration to the effect that family settlement dated 02.07.1996 regarding distribution of the suit properties was a forged and fabricated document and was illegal, null and void. A declaration was also sought that parties were owners in joint possession of 1/4th share each of the suit properties on the basis of Will dated 07.07.1994. Consequential relief of permanent injunction restraining the defendants from alienating the suit properties including BV-119 was sought.

3(iii). The case set up was that Kunj Lal had executed a Will dated 07.07.1994 in favour of all his four sons vide which he had equally distributed the suit properties to them. Gian Chand son of Kunj Lal expired on 19.04.2000. He also executed a registered Will dated 02.12.1998 in favour of the plaintiff bequeathing his entire estate to him. It was alleged that during the life time of Kunj Lal, the defendants, in connivance with two municipal councilors forged a family settlement dated 02.07.1996 and thereafter got the suit properties transferred on the said basis. A complaint had also been filed which was pending in Court.

4. The suit was opposed by the defendants. They filed a joint written statement admitting that Kunj Lal was owner of the suit properties. Execution of the Will dated 07.07.1994 was admitted. It was averred that in the Will, it was not specified as to who would get which property as a result of which, a family settlement dated 02.07.1996 was executed among the four sons of Kunj Lal as per



which the suit properties were divided. It was averred that properties had accordingly been transferred in their respective names. Parties had been put in possession thereof and they had been paying house tax.

5. In the replication, averments made in the written statement were denied and those made in the plaint were reiterated.

6. From the pleadings of the parties, the trial Court framed the following issues:-

1. Whether the plaintiff is entitled to the declaration and permanent injunction as prayed for ? OPP

2. Whether the plaintiff has no locus standi or cause of action to file the present suit ? OPD

3. Whether the suit is not maintainable in the present form ? OPD

4. Whether the suit is within limitation / OPP

5. Relief.

7. Parties led their respective evidence.

7. The trial Court decreed the suit filed by the plaintiff and the appeal filed against the said decision was dismissed, leading to the filing of the present regular second appeal.

8. I have heard learned counsel for the appellants.

9. Sh. P.K.S.Phoolka, learned counsel representing the appellants has submitted that both Courts erred in decreeing the suit. Learned counsel has referred to the family settlement Ex.P-2 and has submitted that the said document had duly been executed between the parties and had been acted upon also.



Learned counsel has referred to the judgments under challenge and has made strenuous efforts to convince the Court that the judgments are not sustainable.

10. I have considered the submissions made by learned counsel for the parties and have perused the record.

11(i). The execution of the Will dated 07.07.1994 was admitted by the defendants in the written statement. The stand taken by them was that since it had not been specified in the Will as to who would get which property, the family settlement was executed.

11(ii). A bare perusal of the family settlement Ex.P-2 says it all. It is a one page document which is on a stamp paper of ₹20/-. It is a hand written document in which initially, there is sufficient spacing between the lines and as one comes down, the spacing starts getting narrow and towards the end, both the spacing and the size of the letters becomes extremely small, meaning thereby that an attempt was made to fit the entire writing on one page. Normally, even if a stamp paper is there, a document which runs into more than one page is completed by adding additional blank pages which are then signed by all parties. It appears that since signatures were not available, the document was prepared on the stamp paper alone.

11(iii). Not only this, there are no signatures on the front of the document and there are four signatures i.e. of Ashok Kumar, Pawan Kumar, Gian Chand and Sadhu Ram on the back side. It is not understood as to why there are no signatures on the front side of the document. Any prudent person would have signed only on the front of the document and not on the back side.



11(iv). This is not all. Hazari Lal, Stamp Vendor, who appeared as PW1 stated that he had sold a stamp paper bearing serial no.19546 for recording an affidavit. He identified the stamp paper on which the family settlement was made. This witness was not cross-examined. It was not clarified as to how on a stamp paper purchased for preparing an affidavit, a family settlement was made.

11(v). The family settlement was not signed by Kunj Lal. The family settlement was allegedly executed on 02.07.1996 and Kunj Lal expired on 14.02.1997. When Kunj Lal was alive, his signatures should also have been there on the family settlement.

11(vi) It was the case of the defendants that the family settlement had been witnessed by two persons namely Baldev Singla and Dalip Singh. However, the family settlement contains signatures only of Baldev Singla and not that of Dalip Singh. The signatures of Dalip Singh were present on Ex.D4 which was a copy of the family partition obtained from the office of the Municipal Council, Goniana Mandi. There was found to be difference between both documents i.e. Ex.P-2 and Ex.D-4 which could not be explained. Even the witness Baldev Singla who appeared as PW3 stated that Sadhu Ram, Gian Chand, Ashok Kumar and Pawan Kumar had not signed the document in his presence. Dalip Singh also appeared as PW4 but he stated that Ex.P2 did not bear his signatures.

11(vii) PW2 Krishan Kumar, Clerk, who appeared from the office of Municipal Council Goniana Mandi, stated that they had transferred the property on the basis of the family settlement without calling any objection from anyone. Both Courts, therefore, rightly found that the execution of the family settlement



did not stand proved and, therefore, transfer of properties on the basis of the said family settlement was illegal and arbitrary. Both Courts, therefore, rightly decreed the suit.

11(viii). Learned counsel for the appellants has not been able to point out any question of law which would arise for the consideration of this Court. Both Courts returned concurrent findings of facts which are not liable to be interfered with in second appeal.

That being so, I do not find any merit in the present appeal and the same is accordingly dismissed.

Pending application(s), if any, shall stand disposed of accordingly.

09.07.2025
mamta

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No