



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

RSA-1710-1995 (O&M)

Reserved on :- 13.10.2025

Pronounced on :-27.10.2025

Parmeshwari Devi (Since Deceased) Through Her LRs and Others

... Appellants

Versus

Bishamber (Since deceased) through his LRS and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. M.L. Sarin, Senior Advocate with
Ms. Hemani Sarin, Advocate
for appellants No.1 and 3.

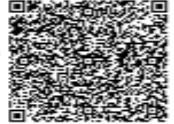
Mr. Sunil Kumar Pandey, Advocate with
Mr. Sumit Sangwan, Advocate,
for appellant No.2.

Mr. Mani Ram Verma, Advocate
for respondent Nos. 1 to 3.

Mr. Naveen S. Bhardwaj, Advocate with
Mr. Lokindra Singh, Advocate
for respondent No.4.

VIRINDER AGGARWAL, J.

The appellants, aggrieved by the judgment and decree dated 14th February 1995 passed by the learned Additional District Judge, Bhiwani, in Civil Appeal No. 28 of 2nd March 1993, whereby the well-reasoned judgment and decree dated 30th January 1993 of the learned Additional Senior Sub-Judge, Charkhi Dadri, in Civil Suit No. 1047 of 31st October 1985, was erroneously set aside, invoke the jurisdiction of this

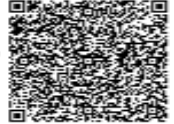


Court under Section 41 of the Punjab Courts Act, 1918, by way of the present Regular Second Appeal (here-in-after to be referred as 'RSA'). The appellants seek restoration of the decree passed by the learned Trial Court and appropriate relief for the substantial injustice suffered.

1.1. It is respectfully submitted that the impugned judgment and decree are manifestly perverse, founded on fundamental errors of law and a grossly flawed appreciation of evidence, resulting in a palpable miscarriage of justice. In view of these circumstances, this Court's intervention is warranted to set aside the erroneous judgment and reinstate the lawful and well-reasoned decree of the learned Trial Court.

2. For the sake of clarity and to facilitate an orderly exposition, the parties in the present proceedings shall hereinafter be designated as the *plaintiffs* and the *defendants*, in accordance with their respective positions before the learned Trial Court. The salient facts and the essential factual matrix giving rise to the institution of the present proceedings may be briefly narrated as follows, so as to provide a coherent framework for the adjudication of the disputes between the parties:-

“The plaintiffs contend that they are the lawful owners in possession of the suit land. The decree dated 31.01.1983 in Civil Suit No. 38 of 1983 is alleged to be collusive and fraudulent, and the mutation based thereon is likewise liable to be set aside, as it cannot affect the plaintiffs' rights. The defendants allegedly misrepresented themselves as heirs of Hira Lal, who had no surviving son, to wrongfully claim the property. No family settlement existed, nor was there any

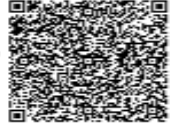


necessity for transfer. Additionally, a subsequent transfer by the defendant in favor of Smt. Bhateri, based on a decree dated 25.01.1986, is also contended to be void and liable to annulment. Consequently, the plaintiffs were constrained to initiate the present suit. ”

3. The suit was contested by Defendant Nos. 1 to 4 on the ground that Defendant No. 1 has been the lawful owner and in possession of the suit property since Samvat 2027, pursuant to a valid adoption and family settlement, with the adoption deed executed on 17.12.1982 and the subsequent decree dated 25.01.1986 lawfully passed in his favour. The defendants categorically deny any fraud upon Hira Lal and submit that the adoption deed is binding on all concerned parties, thereby rendering the plaintiffs' suit untenable and liable to be dismissed.

4. The plaintiffs filed a replication, reiterating all material allegations in the plaint and specifically traversing the defense raised by the respondents. Upon examination of the pleadings, documents, and submissions, Court framed the following issues for determination to adjudicate the rival claims and defenses:-

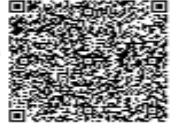
1. Whether the judgement and decree, suit No.38 dated 31.1.83 is illegal, null and void and not binding on the rights of the plaintiffs and the same is liable to be set aside in view the grounds mentioned in para No.4? OPP.
2. If issue No.1 is proved, then whether the mutation No.469 of 7.7.85 is also liable to be set aside? OPP.
3. Whether the suit is within limitation? OPD.
4. Whether the plaintiff has no locus-standi to file the present suit? OPD.



5. Whether the suit is estopped by filing the present suit by his act and conduct ? OPD.
6. Whether the suit land is ancestral between the parties, if so to what effect? OPD.
7. Whether the plaintiff is the owner in possession of the suit land as alleged ? OPP.
8. Relief.

5. Both parties were afforded adequate opportunities to lead evidence in support of their respective claims. Upon the conclusion of the trial and after hearing learned counsel for the parties, the learned Additional Senior Sub-Judge, Charkhi Dadri, decreed the suit in favour of the appellants/plaintiffs, observing that *“the plaintiffs’ suit is decreed, declaring the 31.01.1983 decree in Civil Suit No. 38 void. The plaintiffs and Defendant No.5 are owners in equal possession of the suit land and no order as to cost.”*. Aggrieved by this decree, the appellants/-respondents preferred an appeal before the learned Additional District Judge, Bhiwani, which was allowed, resulting in the reversal of the well-reasoned judgment and decree of the learned Trial Court. The learned Appellate Court, in its judgment, held that *“the trial Court’s judgment and decree are set aside, and the plaintiffs’ suit is dismissed, with parties bearing their own costs. However, Bishamber is directed to pay maintenance of ₹1,000 per month to his mother Kasturi wd/o Hira Lal. ”*

6. Challenging the judgment and decree of the learned First Appellate Court, the appellants instituted the present appeal, which was duly admitted. Notice was served upon the respondents, who appeared through



their respective counsel, and the records of the courts below were requisitioned for scrutiny and adjudication.

7. I have heard learned counsel for the parties and considered their submissions in conjunction with the pleadings, evidence, and findings of the lower courts. The record has been carefully examined to determine '*whether the impugned judgments and decrees are tainted by any legal error or infirmity warranting interference by this Court*'?

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 appellants vigorously contended that the learned First Appellate Court erred in setting aside the well-reasoned judgment of the learned Trial Court through a cryptic and non-speaking order, without reappraising the evidence. Law is well-settled that a First Appellate Court is obliged to give reasoned findings when overturning the conclusions of a Trial Court. It was submitted that the learned First Appellate Court misconceived the facts by observing that the suit was filed by the daughters of Hira Lal, whereas the suit was originally filed by Hira



Lal himself, and the daughters were impleaded as his legal representatives following his death.

9.1. The appellants further submitted that the learned First Appellate Court failed to consider crucial aspects of the case, including the fact that the '*Bahi*' entry forming the basis of the adoption deed Ex.D1 was never produced or proved. Both the adoption deed Ex.D1 and the collusive decree Ex.P1 are illegal, null-&-void, being based on fraud and misrepresentation, as Hira Lal had himself challenged them during his lifetime. The details of the alleged fraud and misrepresentation were specifically pleaded in Paras 2, 3, 4-A to 4-H, and 5-A of the amended plaint, yet the learned First Appellate Court erroneously held that no particulars of fraud had been pleaded.

9.2. The learned counsel for the appellants also emphasized that no evidence of adoption was produced; the natural mother, Jai Devi, was never examined as a witness, and the adoption was never acted upon, as Bishamber continued to be shown as the son of his natural father, Gugan, in official documents. It was further submitted that a family settlement can only be valid among members of the family and must be fair and equitable. The subsequent decree obtained by Bishamber in favour of his wife, Ex.P10, demonstrates malicious intent and underscores the fraudulent nature of the transactions. It is well-settled that a decree obtained by fraud can be challenged even in collateral proceedings.

9.3. In light of the foregoing, the appellants prayed that the impugned judgment of the learned First Appellate Court be set aside, the Trial Court's decree be restored, the plaintiffs' suit be decreed, and the appeal be allowed with costs.



10. Learned counsel for the respondents submitted that the impugned judgment of the learned First Appellate Court is well-reasoned, legally sound, and founded upon a proper appreciation of the pleadings and evidence on record. The Appellate Court acted in accordance with the mandate of Order 41 Rule 31 CPC, and the conciseness of its reasoning does not render it non-speaking, as it sufficiently addresses the substantive issues arising in the matter.

10.1. It was contended that defendant No.1 has been the lawful owner and in possession of the suit property since Samvat 2027, pursuant to a valid adoption and duly executed family settlement. The adoption was effected through the registered adoption deed dated 17.12.1982, and a decree was lawfully passed in his favor on 25.01.1986. The adoption deed, executed following all customary rites and formalities, is binding and enforceable against all parties concerned.

10.2. The allegations of fraud or misrepresentation advanced by the appellants are vague, unsubstantiated, and devoid of evidentiary support, appearing to be a belated attempt to undermine a lawful and long-standing title. Both the Trial Court and the First Appellate Court correctly recognized the validity of the adoption and the consequent ownership rights of defendant No.1. In light of the foregoing, it is submitted that this Court uphold the findings of the First Appellate Court, affirm the ownership and possession rights of defendant No.1, and dismiss the appeal with costs.

11. The contention of learned counsel for the appellants—that the Bahi entry upon which adoption deed Ex.D1 was prepared has not been proved, or that the adoption itself has not been legally established—is

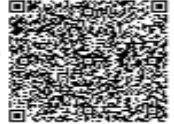


misconceived. In the present suit, Ex.D1 has not been directly challenged; rather, the pleadings explicitly indicate that any challenge to the adoption is being pursued through a separate suit. Specifically, para 4-C of the plaint clarifies that a distinct suit is to be instituted to get the adoption deed set-aside.

11.1. Since the adoption was not contested in the present proceedings, and the ownership of the suit property was not transferred on the basis of Ex.D1, but rather pursuant to the judgment and decree passed in favour of Bishamber in Civil Suit No. 38 of 13.01.1983, the learned First Appellate Court correctly disregarded the evidence regarding adoption deed.

11.2. The findings of the learned Civil Judge are contradictory, as he recognized that the adoption had not been challenged in the present suit, yet simultaneously held that the adoption deed is invalid and set aside the decree on the ground that the suit property is ancestral and coparcenary, and that other family members were not joined in the settlement. The suit, premised on alleged misrepresentation, fails because the adoption was never proven; Hira Lal was not apprised of the terms of the adoption deed or the decree passed in his favour. Bishamber, even after adoption, continued to represent himself as the son of his natural father, Gugan. Moreover, the Bahi entry forming the basis of Ex.D1 was not proved on record.

11.3. Learned counsel for the appellants contended that the First Appellate Court failed to record reasons for disagreeing with the findings of the learned Additional Senior Sub-Judge. This submission is misconceived, as the learned First Appellate Court, in Para 9 of the impugned judgment, explicitly held that the Court cannot go behind a decree, which remains valid

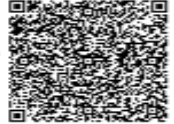


even if unregistered. Consequently, there was no necessity for the First Appellate Court to re-examine the points addressed by the Trial Court.

11.4. The findings of the learned First Appellate Court are based on sound reasoning. The authorities cited by learned counsel for the appellants, including **Santosh Hazari vs. Purushottam Tiwari (Dead) by LR**s JT 2001(2) SC 407 and **Laliteshwar Prasad Singh vs. S.P. Srivastava (D) through LR**s 2017(2) PLR 576, are distinguishable, as the First Appellate Court correctly observed that a Civil Court cannot go behind a decree, consistent with the ratio in **Murti vs. Jai Ram and Others, 2011(3) PLR 459**, which 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. As regards the judgment of the Apex Court in **S.V/R. Mudaliar (Dead) by LR**s & Ors. vs. **Mrs. Rajabu F. Buhari (Dead) by LR**s & Ors., JT 1995(3) SC 614, it is submitted that the same is inapplicable to the facts of the present case. In the present proceedings, the Court is not called upon to adjudicate the genuineness or validity of any document executed by the parties. Rather, the appellant-plaintiff has assailed the judgment and decree passed by the learned Civil Court, which can only be challenged on

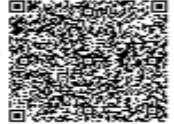


established grounds recognized in law, namely fraud, misrepresentation, or coercion etc..

12.1. The learned First Appellate Court observed that the plaint does not specify particulars of fraud or misrepresentation, and in the absence of such particulars, it cannot be said that the decree in Civil Suit No. 38 of 1983 was obtained illegally or is liable to be set aside. Learned counsel for the appellant contends that this finding is factually incorrect, asserting that details of the alleged fraud have been pleaded in the plaint.

12.2. A perusal of para 4 of the plaint reveals that the decree in question has been challenged on the grounds that the plaintiff, being of advanced age and of simple disposition, lacked the capacity to understand the nature and implications of the documents. The plaintiff had no son, only daughters and a wife, and never adopted the defendant as a son, nor did he executed the adoption deed dated 17.12.1982. A separate suit is being instituted to set aside this alleged adoption. The plaintiff contends that the entire adoption story is fabricated and forged with the intention of unlawfully usurping his property.

12.3. It is further alleged that the defendant manipulated the plaintiff, taking advantage of his advanced age and lack of awareness, and induced him to appear at the Court complex and made him to sit outside Court complex, where he was made to affix thumb impressions on the adoption deed, statement, and written statement without being informed of their contents. The plaintiff had not engaged Uttar Singh, Advocate, and it is contended that the defendant caused him to appear on behalf of the plaintiff,



with the plaintiff's counsel being under the influence of the defendant, thereby facilitating the execution of forged transactions.

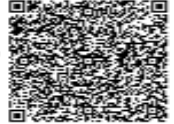
12.4. The plaintiff maintains that no family settlement occurred, and the decree, which effectively transfers ownership, was obtained surreptitiously to evade stamp duty and registration requirements. None of the plaintiff's relatives were aware of the decree, and the entire proceedings are alleged to have been conducted in a clandestine manner. Learned counsel for the appellant contends that the learned First Appellate Court failed to consider these aspects.

13. It is well-settled that pleadings of the parties must be substantiated by leading evidence. In the present case, it is on record that the plaintiff, Hira Lal, appeared in Court and made a statement therein.

13.1. It was therefore incumbent upon the appellant-plaintiff to affirmatively prove that he did not make any such statement admitting the claim of Defendant Bishamber. The appellant-plaintiff has merely alleged that he was made to sit outside the Court complex and was made into affixing thumb impressions on the written statement, adoption deed, and his Court statement. Such allegations required evidentiary support demonstrating that he did not appear in Court and did not make any statement.

13.2. In the absence of such evidence, the law presumes that judicial acts are duly performed in the course of justice, as enshrined in Section 114-e of the Indian Evidence Act, 1872, which provides as follows:-

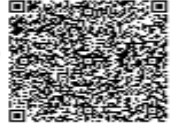
“114(e) that judicial and official acts have been regularly performed”



14. The presumption under Section 114-e of the Indian Evidence Act is a rebuttable presumption, which may only be displaced by cogent and credible evidence. A mere assertion that the appellant-plaintiff was made to affix thumb impressions on the statement outside the Court complex is insufficient to rebut the presumption attached to judicial acts. The sanctity of judicial proceedings is paramount, and allowing such perfunctory allegations to override it would undermine the finality of Court orders and open the door for litigants to challenge statements made in Court on speculative or unsubstantiated grounds. As has been held in **Maruti vs. Jai Ram and Other, 2012(5) RCR(Civil) 574**, 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.”

14.1. Moreover, the appellant-plaintiff has failed to plead the circumstances under which he was brought to the Court complex, or what compelled him to affix thumb impressions on the adoption deed, written statement, or Court statement while allegedly seated outside the Court



premises. In view of this, the learned First Appellate Court correctly observed that particulars of fraud have not been pleaded, and in the absence of such particulars, the decree of the Civil Court cannot be set aside.

14.2. The learned counsel for the appellants contention that a family settlement must be *bona fide*, aimed at resolving genuine disputes and rival claims, and reliance upon the principles laid down in **Richpal and Others vs. Ranjit and Others, 2024(2) PLR 312** and has no force. The authority cited by learned counsel for the appellant are distinguishable, as in that case the Civil Court's decree was not under challenge; the issue related solely to whether a partition had taken place between the parties. In contrast, in the present case, the appellant seeks to assail the validity of a Civil Court decree, which, as is settled law, can only be challenged on the limited grounds of fraud, coercion, or misrepresentation, as held in **Maruti vs. Jai Ram's case (supra)**, already reproduced in para No.11.4 of this judgment.

15. A careful scrutiny of the pleadings and evidence on record demonstrates that the appellant-plaintiff has failed to establish that the judgment and decree passed by the Civil Court in Civil Suit No. 38 of 31.01.1983 were obtained by fraud or misrepresentation. The findings recorded by the learned First Appellate Court reflect a sound and correct appraisal of the pleadings and evidence, and do not warrant interference. Consequently, the present appeal is bereft of merit and is hereby dismissed.

16. 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