



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA-2588-1998 (O&M)

Date of decision: 15.01.2025

SURJAN SINGH

..Appellant

Versus

AMARJIT SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanwaljit Singh, Sr. Advocate
with Mr. Veer Imaan Singh Gill, Advocate
for the appellant.

Mr. Harbhajan Singh, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. The correctness of First Appellate Court's judgment, which in turn has reversed the judgment of the trial Court, is assailed by the plaintiff.
2. In order to comprehend the issues involved in the present case, the relevant facts, in brief are required to be noticed.
3. The plaintiff and defendant were co-owners of a small parcel of land measuring 1 kanal and 9 marlas comprised in Rectangle No.66, Khasra No.19/1/2. The plaintiff was owner to the extent of 73 shares, whereas, defendant was owner to the extent of 14 shares, out of total 87 shares. The defendant filed a suit for possession by way of partition. During the pendency of the suit, the plaintiff and defendant entered into a settlement on 02.12.1992, which was produced as Ex.P-1 in the previous suit. The operative part of the settlement deed reads as under:-

“(i) That the plaintiff admits that he has no share in the suit property and the defendant is the absolute owner of the disputed property.



(ii) That the plaintiff has relinquished his all rights whatsoever in the disputed property in favour of the defendant.”

4. The defendant (plaintiff in the previous suit) has made the following statement in the Court:-

“I have compromised with the respondent which is Ex.C.I. I do not want to prosecute the suit. It be consigned to the record.”

5. Similarly, the plaintiff (who was defendant in the previous suit) made the following statement:-

“I have heard statement of plaintiff (appellant in the present appeal) and the same is correct.”

6. Pursuant to the aforesaid situation, the trial Court dismissed the suit as withdrawn instead of disposing of the suit as compromised. The order passed by the Civil Court reads as under:-

“An application has been filed by the plaintiff Amarjit Singh wherein he has stated that he has compromised with defendant Surjan Singh. As per Ex.CI and has also prayed that he does not want to pursue the case further. A statement to this effect has also been recorded separately in the Court.

In view of the compromise Ex.CI and statement of the plaintiff and defendant, suit of the plaintiff is dismissed as withdrawn. File be cosigned to the record room.”

7. On 01.09.1993, the plaintiff Sh. Surjan Singh filed suit for declaration that he is exclusive owner of the entire property pursuant to the settlement arrived at. The defendant contested the suit but did not dispute the settlement. He claims that the plaintiff herein had agreed to pay Rs.10,000/-, out of which amount of Rs.2,000/- was paid, whereas, remaining amount of Rs.8,000/- was never paid. He relied upon document Ex.D-1. The trial Court decreed the suit, whereas, the First Appellate Court has reversed the decree passed by the trial Court on the ground that the previous suit was dismissed



as withdrawn and the previous decree was not registered, hence, it would not result in transfer of immovable property.

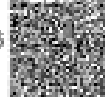
8. This Bench has heard the learned counsel representing the parties and with their able assistance perused the paperbook along with the scanned copy of the digital record.

9. Learned Senior counsel representing the appellant contends that the previous suit filed by the defendant was dismissed, hence, there was no occasion to get the decree registered. He further submitted that the defendant does not dispute the settlement as well his deposition recorded by the Court in the previous suit, hence, in the Court the defendant is now estopped from claiming the ownership.

10. Per contra, learned counsel representing the respondent has submitted that defendant continues to be owner of 14 shares in the joint land in absence of any registered document. He submits that immovable property worth more than Rs.100/- is required to be transferred only by registered instrument.

11. This Court has considered the submissions of learned counsel representing the parties.

12. It is evident that the Court while deciding the previous suit erred in dismissing the suit as withdrawn. Once, it was recorded by the Court in its order that the parties have compromised and the defendant (plaintiff in previous suit) also made statement admitting the settlement, the suit should have been disposed of in terms of compromise. Thus, there is a small error on the part of the trial Court in the previous suit. The Court cannot overlook the fact that there was a settlement in the previous suit, which is not disputed by the defendant in this suit. Though, the defendant has tried to project that



plaintiff failed to pay remaining amount of Rs.8,000/-, however, that document was never placed on file in the previous suit. In compromise deed, Ex.P-1, the plaintiff in the previous suit unequivocally declares that he has relinquished all his rights in favour of defendant (plaintiff herein), hence, the Court cannot overlook that fact while deciding the subsequent suit.

13. Moreover, the previous suit was filed by the defendant, which was dismissed as withdrawn, hence, there was no occasion for the plaintiff to get a decree of dismissal as withdrawn, registered. Once, a decree has been passed in favour of the plaintiff for declaration, he will have to get it registered, however, the plaintiff cannot be denied relief only on this ground.

14. The First Appellate Court has on the one hand held that the decree was required to be registered, whereas, there was no decree in favour of the plaintiff.

15. On the other hand, the Court has overlooked that the defendant had already acknowledged the plaintiff to be the owner of the property.

16. Hence, the present appeal is allowed.

17. The judgment passed by the trial Court is set aside and that of the trial Court is restored.

18. All the pending miscellaneous applications, if any, are also disposed of.

January 15th, 2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*