



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

RSA-1779-2025(O&M)
Date of decision: 02.12.2025

Neetu Kanwar @ Nitu Singh

... Appellant

Versus

Bhim Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ashok Kumar Khunger, Advocate,
for the appellant.

VIKRAM AGGARWAL, J.

This is plaintiff's appeal preferred against the judgment and decree dated 20.01.2025, passed by the Court of Additional District Judge, Fazilka, dismissing the appeal filed by the appellant-plaintiff against the judgment and decree dated 19.11.2018, passed by the Court of Additional Civil Judge (Sr. Division), Abohar, vide which the suit for declaration filed by the plaintiff was dismissed.

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

3. The plaintiff (Neetu Kanwar) is the daughter of one Jaikarni Singh. Jaikarni Singh, Bhim Singh (defendant No.1) and Jaskaran Singh were three sons of one Jaimal Singh. A decree dated 13.02.1990 was passed in a civil suit titled as 'Bhim Singh v. Jaikarni Singh. The said suit was filed by Bhim Singh (brother of Jaikarni Singh) on the basis of a family settlement arrived at between Jaikarni Singh and Bhim Singh.



4. The plaintiff instituted a suit for declaration to the effect that the said decree dated 13.02.1990 passed by the Court of Sub-Judge, 2nd Class, Fazilka, vide which defendant No.1 (Bhim Singh) was declared to be the owner in possession of the suit land measuring 72 kanals (fully described in the plaint), situated in the revenue estate of Village Amarpura, Tehsil Abohar, District Fazilka (hereinafter referred to as '**the suit land**'), was illegal, null and void, the same having been obtained by fraud and that the same was not binding upon the rights of the plaintiff. Consequential relief for permanent injunction restraining defendant No.1 from alienating the suit land and from interfering into the peaceful possession of the plaintiff over the same was also sought.

5. It was averred that Jaikarni Singh had expired on 30.04.2001 leaving behind the plaintiff, defendants No.2 & 3 as his legal heirs. Another legal heir Bhupinder Singh had expired on 13.07.2006. Defendant No.1 being a clever person, with a malafide intention, obtained a decree dated 13.02.1990 in a civil suit titled "Bhim Singh v. Jaikarni Singh, which had been obtained by fraud and was also not registered. It was averred that defendant No.1 had no concern with the suit land and, therefore, no family settlement could have been arrived at. It was averred that the decree was the result of fraud and misrepresentation. It was averred that Jaikarni Singh had never engaged any counsel and had not appeared in the Court nor had filed any written statement. It was also averred that the suit land was ancestral/coparcenary property.

6. The suit was opposed by defendant No.1. In the written statement, certain preliminary objections were raised. It was averred that the



plaintiff had filed the suit at the instance of her brother Parven Singh (defendant No.2) and mother Usha Rani (defendant No.3) with a motive to harass the answering defendant. It was averred that the suit was hopelessly time barred. Other preliminary objections as regards maintainability, *locus standi*, cause of action, estoppel etc. were raised. It was also averred that Jaikarni Singh and Jaskaran Singh had expired. After the decree having been passed, Jaskaran Singh had filed a civil suit in the civil Court at Abohar challenging the decree dated 13.02.1990, in which Jaikarni Singh was also impleaded. Jaikarni Singh duly appeared and admitted that he had suffered the decree in question in favour of defendant No.1. Accordingly, the suit was dismissed by the Court of Additional Civil Judge (Sr. Divn.), Abohar.

6.1 After this, once again, Bhupinder Singh (elder brother of the plaintiff) instituted another civil suit in the Civil Court at Abohar again challenging the decree in question and the said suit was also dismissed. In that suit, defendants No.2 & 3 and plaintiff were also impleaded as parties.

6.2 Thereafter, defendants No.2 & 3 also filed a suit in which the plaintiff was impleaded as defendant No.2 and again the decree was challenged. This suit was also dismissed on 02.03.2015 by the Court of Civil Judge (Jr. Divn.), Abohar. It was averred that under the circumstances, the suit filed by the plaintiff deserved to be dismissed with heavy costs. On merits also, a similar stand was taken.

7. In the replication, the averments made in the written statement were denied and those made in the plaint were reiterated. The factum of the earlier litigation was denied stating that the plaintiff did not have any



knowledge about the same and she had not received any summons at any point of time.

8. From the pleadings of the parties, the following issues were framed:-

- “1. Whether the plaintiff is entitled for declaration as prayed for? OPP**
- 2. Whether the plaintiff is entitled for permanent injunction as prayed for? OPP**
- 3. Whether the suit of the plaintiff is not maintainable in its present form? OPD**
- 4. Whether the plaintiff has no cause of action and locus standi to file the present suit? OPD**
- 5. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD**
- 6. Relief.”**

9. Parties led their respective evidence.

10. The trial Court dismissed the suit filed by the plaintiff vide judgment and decree dated 19.11.2018. An appeal was preferred against the said decision which too was dismissed by the Court of Additional District Judge, Fazilka vide judgment and decree dated 20.01.2025, leading to the filing of the instant appeal.

11. I have heard learned counsel for the appellant.

12. Learned counsel representing the appellant submits that both Courts erred in dismissing the suit filed by the plaintiff, despite the fact that the plaintiff had been able to prove that the decree in question had been obtained by fraud.



13. I have considered the submissions made by learned counsel for the appellant but find the same to be devoid of merit.

14. Concededly, the decree under challenge was passed on 13.02.1990 and the suit by the plaintiff was instituted on 21.05.2016, i.e. after 26 years of the passing of the decree. No valid explanation was given for the same. The Courts, therefore, rightly held that the suit was barred by limitation.

15. Even otherwise, three previous suits challenging the said judgment and decree had been filed, in which the plaintiff was also a party. In one of the suits, Jaikarni Singh had himself appeared and had given a statement that the family settlement had been arrived at between him and Bhim Singh. Under the circumstances, the suit was dismissed. Thereafter, two more suits were filed which too were dismissed. Both Courts recorded detailed findings in this regard. The finding recorded by the first Appellate Court in this regard are as under:-

“15. Very briefly, the father of the appellant and respondents No.2 & 3 namely Jaikarni Singh was co-owner in possession of land situated in village Amarpura. Jaikarni Singh expired on 30.04.2001 leaving behind appellant and respondents No.2 & 3 as his legal heirs. One other legal heir Bhupinder Singh has already expired. The grudge of the appellant is that respondent No.1 with malafide intention to grab the property of Jaikarni Singh has obtained a decree on 13.02.1990 passed in the suit titled as Bhim Singh versus Jaikarni Singh which is result of fraud. The trial Court after hearing the matter, dismissed the suit of the appellant. The appellant has challenged the said



impugned judgment basically on the ground that before passing the impugned judgment, the trial court was required to consider the provision of Registration Act, Stamp Act and Transfer of Property Act. It has been further pleaded that respondent No.1 has no concern with the suit land and no family settlement has ever taken place between respondent No.1 and deceased Jaikarni Singh. The signatures of Jaikarni Singh were obtained by respondent No.1 on the pretext of moving some application to canal Authority on blank papers. Neither Jaikarni Singh engaged any counsel nor appeared in any Court nor filed any written statement. Further, the land in question is joint, ancestral and coparcenary property and being coparcener, the appellant has pre-existing right in the suit land. It was further averred that the appellant and respondents No.2 & 3 are in possession of the suit land and as such, the appeal is liable to be allowed by setting aside the impugned judgment as the findings of the Trial Court on all the issues favouring the respondent No.1 are erroneous and as such are not sustainable. On the other hand, the respondent No.1 mainly contested the appeal as well as the suit in the trial court while other respondents No.2 & 3 admitted the suit of the appellant plaintiff in the trial Court itself. Now, the perusal of the stand taken by respondent No.1 is to the effect that on the first instance the suit filed by the appellant was time barred and further it is also suffering from doctrine of resjudicata and was not maintainable. Even the ground of locus standi of the appellant to file the suit was also questioned. The respondent No.1 vehemently pleaded that the appellant concealed the material facts



from the Court. The father of appellant namely Jaikarni Singh, Bhim Singh respondent No.1 and Jaskaran Singh were three brothers. Both Jaikarni Singh and Jaskaran Singh have died. The suit land came to the share of Bhim Singh in the family settlement and as such, Jaikarni Singh suffered the collusive decree in his favour. A suit was later on filed by Jaskaran Singh at Abohar challenging the decree dated 13.02.1990 in which Jaikarni Singh was impleaded as a party but, the said suit was dismissed by the then Additional Civil Judge (Senior Division), Abohar. Again, Bhupinder Singh elder brother of appellant (since deceased) filed a civil suit at Abohar against the respondent challenging the decree in question which was also dismissed. Thereafter, respondents No.2 & 3 again filed a civil suit against respondent in which appellant was impleaded as respondent No.2 challenging the decree in question and the said suit was again dismissed by Civil Judge (Junior Division), Abohar on 02.03.2015.

Thus apparently the appellant did not approach the trial Court with clean hands and concealed the very material facts mentioned above. It appears that not only appellant but respondents No.2 & 3 also are making the mockery of the Judicial System by bringing the suits challenging the decree in question passed years ago again and again. Further, nothing has been proved on record that the property in question was ancestral in nature. Further no excerpt has been produced on record to show that the property in question was ancestral in nature. Nothing has been placed on record to prove any misrepresentation done by respondent No.1 for



getting the decree in question. The validity of the decree in question has been already upheld at various times by various Courts. Even the suit filed by the appellant in the trial Court was time barred, not maintainable and further without having any locus standi of the appellant to file the same. Moreover, the decree in question is not even liable to be set aside on the grounds taken by the appellant that the provisions of Registration Act, Stamp Act and Transfer of Property Act etc., have not been followed. Thus, the findings of the trial court on issues No.1 to 3 are correct and need no interference. Further the findings of the trial court on issues No.4 & 5 decided against the appellant are also correct and are sustained accordingly.”

16. Learned counsel for the appellant has not been able to point out any illegality in the aforesaid findings or any misreading of evidence by either of the Courts warranting interference in second appeal.
17. That being so, the instant appeal is found to be bereft of merit and is accordingly dismissed.
18. Pending application(s), if any, also stands disposed of.

(VIKRAM AGGARWAL)
JUDGE

December 2, 2025
Rajan

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