



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 157 of 2023 (O&M)

Date of Decision: 02.04.2025

Lila Ram and Others

... Appellant(s)

Versus

Raje Ram and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Manish Mehta, Advocate
for the appellant(s).

Anil Kshetarpal, J.

CM-469-C-2023

1. For the reasons stated in the application, the same is allowed and delay of 210 days in refiling the appeal is condoned.

RSA-157-2023

2. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

3. Some of the defendants assail the correctness of the concurrent findings of facts arrived at by both the Courts below while decreeing the plaintiffs' suit for the grant of decree of declaration that the plaintiffs and the defendants No.1, 2 and 5 to 12 are the co-sharers in the two parcels of land measuring 87 kanals 13 marla and 8 kanals, respectively. In fact, the

Director of Consolidation, Haryana, vide order dated 28.03.2008, exchanged the land measuring 1 kanal 5 marlas in order to provide passage to the plaintiffs and the defendants No.1, 2 and 5 to 12. Subsequently, the defendants No.1 and 2, in collusion with the defendants No. 3 and 4, filed a Civil Suit No. 272 of 2011 titled as “Raj Kumar and Others v. Amrit Lal and Others”, in order to nullify the affect of order of the Director of Consolidation, Haryana, dated 28.03.2008. In the aforesaid suit, the decree was passed on the basis of compromise, which carved out the passage mark HYJ in the site plan. Now the plaintiffs have filed a suit claiming that the decree dated 16.01.2012, is not binding on their rights because they were never impleaded as a party. Both the Courts below have found that the compromise decree dated 16.01.2012, does not affect the plaintiffs’ rights accruing in their favour pursuant to the order dated 28.03.2008, passed by the Director of Consolidation, Haryana, as they were not a party to the suit.

4. The learned counsel representing the appellants submits that the house of the appellants has been exchanged in order to provide a passage and the Director of Consolidation, Haryana, has no power to review its order dated 29.03.2007.

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

6. There is an order passed by the Director of Consolidation, Haryana, on 28.03.2008 providing passage to the plaintiffs and the defendants No.1, 2 and 5 to 12. If the appellants claim that the said order is without jurisdiction, then the plaintiffs are required to be heard before such declaration is granted. However, when the appellants filed the suit in 2011,

they never impleaded the plaintiffs as a party. Both the Courts below have never declared that the judgment and decree passed on the basis of compromise dated 16.01.2012, is illegal because the plaintiffs were not given an opportunity of being heard. This Court does not find any ground to interfere with the aforesaid findings.

7. Consequently, the present appeal is dismissed. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

April 02, 2025

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No