



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

RSA-5216-2012 (O&M)

Date of decision: 03.02.2025

MOHINDER SINGH & ORS

..Appellants

Versus

NARINDER PAL SINGH & ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Rupinder Kaur Thind, Advocate
for the appellants.

Mr. Satbir Singh Gill, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. The only ground to discard the memorandum of family settlement executed between the parties by the Courts below is its non-registration.
2. On 29.01.2025, the following order was passed:-

“This regular second appeal has been filed by the defendants to challenge the correctness of concurrent findings of fact arrived at by the Courts below while decreeing the plaintiffs suit for possession by way of partition of the property. Originally, Sh. Kishan Singh was owner of the property. He had a son namely Sh. Mohinder Pal. Sh. Mohinder Pal has three sons namely Sh. Narinder Pal, Sh. Gurinder Pal and Sh. Tejinder Pal. Sh. Tejinder Pal has two sons namely Sh. Amandeep Singh and Sh. Harmandeep Singh.

On 07.03.1963, Sh. Kishan Singh executed a Will bequeathing 1/3rd share in the property in favour of Sh. Mohinder Pal, his son, whereas, 2/3rd was bequeathed in favour of three grand-sons namely Sh. Narinder Pal, Sh. Gurinder Pal and Sh. Tejinder Pal.

It is the case of the appellants (defendants) that by virtue of family settlement dated 11.10.1999, the properties were divided.

Learned counsel representing the appellant submits that both the Courts have ignored the family settlement on the ground of document, being not registered.



To adjudicate the case, it is important to read, analyse and evaluate the alleged document dated 11.10.1999, which is written in 'Gurmukhi' language.

Learned counsel for the parties are requested to write the document as it is in 'Devanagari' script and English.

List on 03.02.2025, in the urgent list."

3. Learned counsel for respondent has handed over transcription of the memorandum of family settlement dated 11.10.1999, which has been carefully perused.

4. Once, again, this Bench has heard the learned counsel representing the parties at length.

5. Sh. Gurinder Singh (plaintiff No.2) has admitted execution of memorandum of family settlement and its implementation.

6. The Courts have from time immemorial leaned towards upholding the family settlements while adopting consistent practice of non-interference. The Three Judge Bench of the Supreme Court in **Kale and others Vs. Deputy Director of Consolidation and others, 1976 AIR (SC) 807**, held that if the family settlement is bona fide and it has been implemented, the Court will not allow the parties to resile therefrom on the ground of non-registration by invoking the doctrine of estoppel, which is an equitable doctrine. This judgment has been recently reiterated in **Khushi Ram and others Vs Nawal Singh, (2021) 16 SCC 279, Ravinder Kaur Grewal and others Vs Manjeet Kaur, (2020) 9 SCC 706** and **Mohammade Yousuf and others Vs Raj Kumar and others, (2020) 10 SCC 264**.

7. In this case, on 11.10.1999, the memorandum of family settlement was executed and signed between the parties, which was implemented and acted upon. Sh. Gurinder Singh admits that the parties came into possession in accordance with the aforesaid family settlement in



the year 1999. The suit was filed after a passage of 8 years i.e. in the year 2007. Moreover, the Courts have erred while observing that the memorandum of family settlement was only a temporary arrangement to put the parties in separate possession. It is evident from reading of document dated 11.10.1999, that this was a permanent arrangement.

8. Keeping in view the aforesaid facts, even if the document is un-registered, still the plaintiffs suit for partition of the property, which stood already divided by document dated 11.10.1999 is not maintainable. This Court in **Regular Second Appeal No.395 of 2021, titled as Gian Chand Vs. Bhagwant Rai, decided on 16.07.2021**, has examined this aspect in detail.

9. Hence, the impugned judgments are set aside resulting in dismissal of the plaintiffs suit.

10. With these observation, the present appeal is disposed of.

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

February 03rd, 2025

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(ANIL KSHETARPAL)
JUDGE

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