



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-6391-2018 (O&M)
Date of Decision: 10.02.2025

HAZARI LAL

... APPELLANT

Vs.

KABUL SINGH (DECEASED) THROUGH HIS LRS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rahul Deswal, Advocate, for the appellant.

DEEPAK GUPTA, J.

Plaintiff of the suit has approached this Court by way of the present Regular Second Appeal, assailing the judgment and decree dated 23.08.2016 of the First Appellate Court of Id. Additional District Judge, Narnaul, dismissing the appeal against the judgment and decree dated 12.04.2013 of the trial Court, whereby suit filed by the plaintiff-appellant seeking declaration regarding property in dispute, was dismissed.

2. Ld. counsel for the appellant has been heard and paper-book has been perused.

3.1 According to the plaintiff-appellant, he is son of defendant No.1- Kabul Singh. Defendant No.2-Kirorimal is the brother of plaintiff i.e. other son of Kabul Singh. As per the plaintiff, parties constituted a Joint Hindu Family and suit property was coparcenary property with defendant No.1 as its Karta. In the revenue record, defendant No.1 was being reflected as owner and taking benefit thereof, collusive decree dated 25.05.1988 was suffered by defendant No.1 in favour of defendant No.2 and based thereon, mutation No.460 dated 22.06.1989 was sanctioned. Plaintiff claimed that said decree and subsequent mutation was not binding upon him, as no family settlement had taken place between the parties.

3.2 Contesting the suit, defendants claimed that there was no coparcenary between the parties, inasmuch as plaintiff had been adopted by

Birju son of Het Lal, the brother of defendant No.1 vide registered adoption deed dated 17.06.1985 and thus, plaintiff was not the coparcener in the suit property. The judgment and decree dated 25.05.1988, as suffered by defendant No.1 in favour of defendant No.2, was defended to be illegal and void. It was further stated that the said decree dated 25.05.1988 was earlier assailed by the plaintiff by filing Civil Suit No.742 of 1990 and the same was dismissed with costs on 24.11.1992 and therefore, the present suit filed in 2007 was not maintainable.

3.3 Necessary issues were framed. Evidence produced by the parties was taken on record. Trial Court dismissed the suit vide judgment dated 12.04.2013 and the First Appellate Court affirmed the findings.

4. It is contended by Id. counsel that Birju had challenged the adoption of the plaintiff-Hazari by filing Civil Suit No.507 of 1990 and that suit was decreed on 18.08.1990 and in this way, plaintiff was no longer the adoptive son of Birju.

5. There is no merit in the contention. As has been observed by the Appellate Court, plaintiff had been adopted by Birju, brother of defendant No.1 vide registered adoption deed dated 17.06.1985 (Ex.DW4/A). Though the adoption was assailed by Birju by filing a suit, but the judgment and decree dated 18.08.1990 (*Annexures P2 & P3 herein*) revealed that though the relief claimed by Birju was to set aside the adoption deed, but as per the judgment, the said relief was not granted. The Appellate Court observed that it was clear from the judgment dated 18.08.1990 passed in Civil Suit No.507 of 1990 titled 'Birju Vs. Hazari' that adoption deed dated 17.06.1985 had not been set aside.

6. Ld. First Appellate Court also took into account the admission of the plaintiff that after the death of Birju, he had performed his last rights. Not only above, it was further observed that the plaintiff had earlier assailed the judgment and decree dated 25.05.1988 and the subsequent mutation No.460 dated 22.06.1989 by virtue of which consent decree was passed in favour of defendant No.2, but that suit was dismissed with costs vide judgment dated

24.11.1992 (Ex.D2) and this way, the present suit was hopelessly barred by limitation.

7. Ld. counsel for the appellant could not assail the above said findings by raising any cogent ground.

8. This Court does not find any ground whatsoever to interfere in the well-reasoned concurrent findings recorded by the Courts below. There is no illegality or perversity in the impugned judgments.

No merits. Dismissed.

10.02.2025

Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>Yes</i>