



RSA-77-2019(O&M)

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

RSA-77-2019(O&M)

Date of decision: 13.01.2025

Hazara Singh and another

..Appellants

Versus

Charanjit Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pritam S Saini and
Mr. Abhay Singh Chauhan, Advocates for the appellants

* * * *

ANIL KSHETARPAL, J. (Oral)

1. The correctness of the concurrent findings of fact arrived at by the courts below is challenged by the plaintiffs in this Regular Second Appeal. Late Sh. Joginder Singh, the father of the plaintiffs suffered a decree in favour of his grandson Sh.Charanjit Singh on 01.03.1994. The plaintiffs filed a suit for declaration that such judgment and decree is illegal. In the subsequent suit (present suit), Sh.Joginder Singh was defendant no.2. He alongwith Sh.Charanjit Singh filed a joint written statement admitting the correctness of the judgment and decree dated 01.03.1994 on the basis of family settlement. Thus, both the courts below dismissed the plaintiffs' suit.

2. Heard the learned counsel representing the appellants at length and with his able assistance perused the paperbook alongwith the requisitioned record.

3. Learned counsel representing the appellants has submitted that originally Sh.Charanjit Singh filed a suit against Sh.Joginder Singh on

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31.05.1993. In the aforesaid suit, Sh.Joginder Singh initially filed a written statement admitting Sh.Charanjit Singh's claim, however, subsequently, he denied the alleged family settlement by filing an application for permission to amend the written statement, which was allowed by the trial court. The revision petition filed by Sh.Charanjit Singh challenging the amendment to the written statement was dismissed. He submits that subsequently Sh.Charanjit Singh was not entitled to file a fresh suit on 22.02.1994. He claims that said suit resulted in fraud with the court and hence, was not entertainable.

4. This Court has considered the submissions made by the learned counsel representing the appellants.

5. It may be noticed here that in May, 1993 the first suit was filed by Sh.Charanjit Singh. At the first instance, Sh.Joginder Singh filed written statement admitting family settlement, however, subsequently, took summersault. In the second suit filed by Sh.Charanjit Singh, Sh.Joginder Singh not only filed the written statement admitting Sh.Charanjit Singh's claim but also deposed in the court to same effect which resulted in decree passed on 01.03.1994. Thereafter, the plaintiffs filed the present suit on 30.04.1994. On 17.05.1994 Sh.Charanjit Singh and Sh.Joginder Singh filed joint written statement admitting the correctness of the decree dated 01.03.1994. Order VII Rule 1 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') only provides that the plaintiffs are required to submit that no suit between the same parties is pending or decided. However, failure to make such declaration does not entail setting



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aside the decree already passed by the Court. Moreover, Sh.Joginder Singh in subsequent suit also has acknowledged the decree passed on 01.03.1994.

6. Hence, no ground to interfere is made out.

7. Dismissed.

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

13.01.2025

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No