

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

RSA-214-2019 (O&M)

Reserved on : 09.01.2025

Date of Decision : 21.01.2025

Hardyal Singh (deceased) through his LRs

....Appellants

VERSUS

Nazir Singh and Others

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. T.P.S. Tung, Advocate for the appellants.

ALKA SARIN, J.**CM -469-C-2019**

1. For the reasons stated in the application, the same is allowed and the delay of 491 days in re-filing the present appeal is condoned.

RSA-214-2019 (O&M)

2. Present appeal has been preferred by plaintiff-appellant challenging the judgement and decree dated 06.04.2012 passed by the Trial Court and the judgement and decree dated 30.04.2016 passed by the First Appellate Court.

3. The brief facts relevant to the present lis are that the plaintiff-appellant has challenged a Civil Court decree dated 20.05.1986 passed in Civil Suit No.34 of 1983 for possession of land measuring 14 Kanals and 10 Marlas on the ground that the same is illegal, null and void as fraud was played upon the Court. The suit was contested by the defendant-respondents denying that there was any fraud played with the Court. Replication was filed. On the basis of pleadings of the parties, the following issues were framed :

1. Whether the decree 22.05.1986 in civil suit no.34 of 1983 titled as 'Nazar Singh Vs. Hardial Singh and others' is illegal, null and void and result of fraud played by defendant no. 1 and his brother Mohinder Singh (deceased) ? OPP
2. Whether the plaintiff is entitled to decree of declaration as prayed for in the head of the plaint ? OPP
3. Whether the plaintiff is entitled to decree of injunction as prayed for in the head note of the plaint ? OPP
4. Whether suit is not within limitation ? OPD
5. Whether the plaintiff has no jurisdiction to file the present suit ? OPD
6. Whether the plaintiff has no locus standi to file the present suit ? OPD
7. Whether the suit of the plaintiff is bad for non-joinder of parties ? OPD
8. Relief.

4. The Trial Court dismissed the suit vide judgment and decree dated 06.04.2012. Aggrieved by the same an appeal was preferred which appeal was also dismissed by the First Appellate Court vide judgement and decree dated 30.04.2016. Hence, the present regular second appeal.

5. Learned counsel for the plaintiff-appellant would contend that both the Courts have erred in dismissing his suit. It is urged that a total fraud had been played by the defendant-respondent No.1 and his brother, namely, Mohinder Singh and that the decree under challenge was obtained by fraud.

6. Heard.

7. Both the Courts concurrently found that in the judgment and decree dated 20.05.1986 (Ex.P7) passed in Civil Suit No.34 of 1983 the plaintiff-appellant herein was impleaded as defendant No.1. The plaintiff-appellant herein (defendant No.1 in Civil Suit No.34 of 1983) chose not to challenge the judgment and decree dated 20.05.1986 by filing any appeal, however, the present suit for declaration was filed on 06.10.2004. Both the Courts *ex facie* found the suit barred by limitation as the limitation for challenging the judgment and decree in the suit was 03 years. Learned counsel for the plaintiff-appellant has not been able to convince this Court that instead of filing an appeal the plaintiff-appellant, who was very much aware of the judgment and decree and was a party thereto, could file the present suit in the year 2004.

8. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.01.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO