



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

**RSA-206-2002 (O&M)
Reserved on :- 27.01.2026
Date of Pronouncement:-02.02.2026
Uploaded on:-04.02.2026**

Munshi Ram (Deceased) through LRs and Others

... Appellants

Versus

Dhara and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Kulvir Narwal, Advocate
for the appellants.

Mr. Rakesh Nehra, Senior Advocate with
Mr. Devesh Nehra, Advocate
for respondents No.1, 3, 4 and 6.

VIRINDER AGGARWAL, J.

1. At the threshold, the present Regular Second Appeal (hereinafter referred to as “RSA”) has been instituted by the appellants—plaintiffs impugning the judgment and decree dated 06.09.2001 rendered by the learned Additional District Judge, Jhajjar, whereby the findings of the learned trial Court were affirmed in their entirety. The learned trial Court, vide its judgment and decree dated 08.08.1996 passed by the learned Civil Judge (Junior Division), Bahadurgarh, had dismissed the suit filed by the appellants—plaintiffs seeking a declaratory decree. Aggrieved thereby, the appellants challenge the concurrent findings recorded by both



the Courts below, contending the same to be legally untenable and factually erroneous.

2. For the sake of clarity, the pertinent facts of the case are delineated hereunder:-

“The plaintiffs, Munshi Ram and others, instituted a suit against the defendants Dhare and others, challenging the validity of the judgment and decree dated 10.09.1985, passed in Civil Suit No.620 of 1985 titled Dhare etc. v. Smt. Dayawanti etc. The challenge was predicated on the contention that Smt. Amro Devi, the real mother and legally wedded wife of plaintiff Munshi Ram and mother of plaintiffs Nos. 2 to 7, and daughter of Shri Dulia of village Dehkora, District Rohtak, who passed away on 02.05.1986, leaving the plaintiffs as her legal heirs, was never made a party in the said civil suit. Upon the death of her father, Shri Dulia, Smt. Amro Devi inherited a one-half share in the agricultural land in village Dehkora, as detailed in paragraph 2 of the plaint.

It is averred that defendants Nos. 1 to 5 filed the said Civil Suit No.620 of 1985 seeking a declaratory decree against Smt. Amro Devi; however, she never appeared in the proceedings, neither filed a written statement nor made any representation before the Court. The plaintiffs allege that, by misrepresentation and impersonation, the defendants succeeded in obtaining the impugned judgment and decree dated 10.09.1985 in their favour. It is further contended that, being co-sharers in the suit property and legal heirs of Smt.



Amro Devi, the impugned judgment and decree cannot be binding upon the plaintiffs or affect their rights, as it is illegal, null, and void. Despite repeated requests to the defendants to acknowledge their claim, no relief was forthcoming, compelling the plaintiffs to institute the present suit.”

3. On being duly served, the respondents, through their authorized counsel, made their appearance and resisted the claim by submitting a written statement, the operative contents of which are summarized as follows:-

“The defendants, in their written statement, contended, at the threshold, that the suit, in its present form, was not maintainable.

They further asserted that the suit was barred under Order 22, Rules 3 and 9 of the Civil Procedure Code and that it was liable to be dismissed on account of misjoinder of parties.

On the merits, the defendants specifically denied the claims advanced by the plaintiffs, maintaining that the impugned judgment and decree had been validly and lawfully passed in their favour. They further refuted the allegations of misrepresentation in respect of Smt. Amro Devi and repudiated any claim of impersonation, asserting that the dismissal of the earlier suit was neither illegal nor void and that the plaintiffs’ contentions were wholly untenable.”

4. The averments contained in the defendants’ written statement were duly controverted by the plaintiffs, who thereafter filed a replication



reiterating the material allegations set forth in the plaint. Based on the pleadings of the respective parties, the following issues were framed by the learned Trial Court, vide order dated **22.03.1990:-**

1. Whether the plaintiffs are entitled for the relief as claimed for ?
OPP
2. Whether the impugned judgment and decree dated 10.9.1985 are illegal, null and void and not binding upon the rights of the plaintiffs, as alleged?OPP
3. Whether the suit is not maintainable in the present form ?OPD
4. Whether the plaintiffs are estopped from filing the suit by their act and conduct ?OPD
5. Whether the suit is bad for mis-joinder of necessary Parties ?OPD

Issue No. 5-A was subsequently framed as an additional issue in the present case, vide order dated 08.11.1995, in the following terms:-

- 5-A Whether the present suit is barred u/o 22 rule 3 & 9 CPC, as allèged ?OPD
6. Relief.

5. Consequent upon the framing of issues, both parties were afforded adequate and effective opportunity to lead their respective evidence. Upon a comprehensive appraisal of the pleadings and the entire material brought on record, the learned trial Court dismissed the suit instituted by the appellants–plaintiffs. The appeal carried therefrom by the appellants–plaintiffs also came to be dismissed by the learned First Appellate Court. Aggrieved by the concurrent findings and conclusions recorded by both the Courts below, the appellants have invoked the jurisdiction of this Court by filing the present Regular Second Appeal.



6. Upon being found to warrant consideration, the appeal was formally admitted for regular hearing and notice was issued to the respondent, who entered appearance through learned counsel and contested the matter. Accordingly, the appeal was heard at length and finally adjudicated upon the submissions advanced by learned counsel appearing for the respective parties.

6.1. With a view to ensuring a comprehensive, informed, and effective adjudication of the issues arising in the present appeal, the entire record of the learned Courts below was summoned and placed before this Court for due perusal and consideration.

7. I have heard learned counsel for the appellants at considerable length and have accorded careful, anxious, and thoughtful consideration to the submissions advanced. The same have been examined in the light of the pleadings of the parties, the evidence adduced on record, and the concurrent findings returned by the learned Courts below. The entire material has been subjected to a meticulous and exhaustive scrutiny to determine *‘whether the impugned concurrent judgments and decrees suffer from any jurisdictional error, patent perversity, misappreciation of evidence, or any other legal infirmity warranting interference in the exercise of appellate jurisdiction’*.?

8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157,***



followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel appearing on behalf of the appellants submitted, at the outset, that the learned First Appellate Court has erroneously dismissed the appeal by invoking the provisions of Order XXII Rule 9 of the CPC, on the premise that the appellants had no subsisting right to challenge the decree during the lifetime of Smt. Amro. It was contended that the decree in question is vitiated for want of compulsory registration and that such a plea was not available to Smt. Amro during her lifetime. Consequently, an independent and distinct cause of action accrued in favour of the appellants/plaintiffs. It was further urged that the learned First Appellate Court failed to return findings on the issues arising for consideration and dismissed the appeal solely on technical grounds, without adjudicating the matter on merits.

10. Per contra, learned counsel for the respondents submitted that the judgment and decree passed by the learned First Appellate Court suffer from no illegality or infirmity whatsoever. It was argued that the learned First Appellate Court has duly affirmed the judgment and decree of the learned Trial Court, thereby endorsing the findings recorded on merits. The appeal, according to the respondents, was not dismissed on mere technicalities but upon a proper appreciation of the legal position. Learned counsel, therefore, prayed for dismissal of the present appeal and for



affirmation of the judgment and decree passed by the learned First Appellate Court.

11. It is an admitted position on record that Smt. Amro had assailed the judgment and decree dated 10.09.1985 by instituting a civil suit; however, she expired during the pendency thereof. An application preferred by the appellants–plaintiffs seeking their impleadment as legal heirs was dismissed on account of non-appearance of the applicants vide order dated 21.05.1987, resulting in dismissal of the said suit. In view thereof, the learned First Appellate Court held that the present suit was barred under the provisions of Order XXII Rule 9 of the CPC, placing reliance upon the judgment of the Lahore High Court reported as ***AIR 1933 Lahore 752, titled Raju v. Ram Chander and Others***. The learned First Appellate Court further observed that although no specific order declaring abatement was passed, the abatement ensued automatically by operation of law upon the lapse of the prescribed period. It was also held that the plaintiffs, having failed to step into the shoes of Smt. Amro as her legal heirs/legal representatives, could not be permitted to contend that they possessed an independent right to challenge the validity of the decree on the ground of non-registration. Consequently, the judgments and decrees passed by the learned Courts below were affirmed and the appeal stood dismissed.

12. No doubt, in the judgment rendered by the learned First Appellate Court, the issue as to whether the decree was procured by misrepresentation or impersonation has not been specifically adverted to. However, a careful perusal of the judgment reveals that no such ground was urged by the appellants while assailing the judgment and decree



passed by the learned Trial Court. The challenge raised before the First Appellate Court was confined to the assertion that the appellants were competent to maintain the suit in their individual capacity, independent of their status as legal representatives of Smt. Amro. It was further contended that the appellants possessed an independent right to question the decree on the ground of its illegality for want of compulsory registration, the decree allegedly having created, for the first time, rights, title or interest in immovable property exceeding the value of ₹100/-.

12.1. The learned First Appellate Court has rightly concluded that the appellants derive their claimed right, title and interest in the suit property solely through Smt. Amro and, consequently, have stepped into her shoes. Since Smt. Amro herself was not entitled to challenge the decree on the ground of non-registration, the learned First Appellate Court correctly held that the appellants, standing in her stead, could not be permitted to assail the validity of the decree on the same ground.

12.2. Secondly, it is true that the learned First Appellate Court has erroneously concluded that the suit stood abated by mere efflux of time on the ground that the appellants were not brought on record as legal representatives of Smt. Amro within the period prescribed under the provisions of Order XXII of the CPC. While arriving at this conclusion, the learned First Appellate Court placed reliance upon the judgment of the Lahore High Court in *Raju v. Ram Chander and Others* (supra). However, the learned First Appellate Court failed to take into consideration that the provisions of Order XXII Rule 3(2) of the CPC stand amended for the States of Punjab, Haryana and the Union Territory of Chandigarh vide



G.S.R.14/C.A.5/1908/S.112/92 dated 21.02.1992. The amended provision reads as under: :-

“Where within the time limited by law, no application is made under sub-rule (1), the suit shall not abate as against the deceased plaintiff and the judgment may be pronounced, notwithstanding his death, which shall have the same effect as if it has been pronounced before the death took place, and the contract between the deceased and the pleader in that event shall continue to subsist.”

12.3. The learned First Appellate Court failed to take into account the aforesaid amendment introduced by this Court in the statutory provisions governing abatement of suits. Post the amendment carried out in the year 1992, a suit would not abate in the manner contemplated under the unamended provisions. Consequently, the reliance placed upon the judgment of the Hon’ble Lahore High Court is wholly misplaced and inapplicable to the facts of the present case, inasmuch as the said authority was rendered in the context of the legal position obtaining prior to the amendment of Order XXII of the Code of Civil Procedure by this Court.

13. As regards the submission advanced by learned counsel for the appellants that the learned First Appellate Court failed to record findings on all the issues, a careful perusal of the impugned judgment clearly reveals that the learned First Appellate Court, upon due consideration, recorded a reasoned conclusion that the appeal was devoid of merit and, accordingly, dismissed the same. It has not been demonstrated by learned counsel for the appellants that any additional arguments on other issues were raised before the First Appellate Court and remained unaddressed. Once all the contentions urged before the First Appellate Court stood duly



considered and dealt with, the judgment and decree passed by the learned First Appellate Court cannot be said to suffer from any legal infirmity.

13.1. Learned counsel for the appellants further contended that the finding recorded by the learned Trial Court to the effect that the decree had been suffered by Smt. Amro with her consent was arrived at without proper appreciation of the pleadings and evidence on record. In the plaint, the appellants/plaintiffs had specifically pleaded that the decree was the result of misrepresentation and impersonation. Insofar as the allegation of impersonation is concerned, the learned Trial Court has categorically recorded that the thumb impressions of Smt. Amro appearing on the written statement as well as on the statement recorded in Court were found to tally with her standard thumb impressions.

13.2. In support of their case, the appellants/plaintiffs examined a fingerprint expert, PW-5 Naresh Kataria, who opined that the disputed thumb impressions marked as Q-1 to Q-3 were badly superimposed and, therefore, unfit for comparison. On the other hand, the respondents/defendants examined their own fingerprint expert, DW-1 Som Nath Aggarwal, who submitted a report stating that although the thumb impressions Q-1 to Q-3 were superimposed, they were not badly so and were, in fact, fit for comparison. He further opined that sufficient portions of the disputed thumb impressions were clear to permit comparison and identification.

13.3. The learned Trial Court, after minutely examining the photographs submitted by both the experts, exhibited as Ex. PW-5/1 to Ex. PW-5/4 and Ex. DW-1/1 to Ex. DW-1/15, recorded its own observation



that the thumb impressions were not so badly superimposed as to render them unfit for comparison. In exercise of its power under Section 73 of the Indian Evidence Act, 1872, the Court compared the disputed thumb impressions with the admitted specimen thumb impressions and assessed their suitability for comparison. While technical assistance is required to aid the Court in arriving at a conclusion regarding identity, the learned Trial Court, in the facts of the present case, rightly placed reliance upon the report of DW-1 Som Nath Aggarwal and concluded that the disputed thumb impressions were indeed those of Smt. Amro.

13.4. The said conclusion also finds ample corroboration from the oral evidence on record. The defendants examined Smt. Santosh as DW-2, who was one of the co-defendants along with Smt. Amro in the earlier suit. She deposed that she was present at the time of filing of the written statement in the previous suit and categorically stated that Smt. Amro had appeared before the Civil Court, filed her written statement, and affixed her thumb impressions in her presence, along with herself and her sister Dayawanti.

14. Smt. Santosh was admittedly one of the co-defendants in the earlier proceedings, and her testimony operates against her own interest. Her presence in Court at the time of affixation of the identification marks on the written statement cannot be doubted, particularly as she herself was a co-defendant and had also affixed her identification mark on the said written statement. Further corroboration is forthcoming from the evidence of Sh. Naval Singh, Advocate, examined by the appellants/plaintiffs as PW-4, who categorically deposed that defendants No. 1 to 3 in Civil Suit



No. 620 of 1985 had engaged him as counsel and that he had proved the written statement, exhibited as Ex. PW-4/1, filed on behalf of the defendants, including Smt. Amro. The learned Trial Court, therefore, rightly concluded that Smt. Amro had appeared before the Court and had made her statement.

14.1. It was incumbent upon the appellants/plaintiffs to establish, through cogent and convincing evidence, that the written statement filed and the statement made in Court by Smt. Amro were the result of misrepresentation. However, no such evidence was adduced. Consequently, the findings recorded by the learned Trial Court on Issues No. 1 and 2 cannot be characterised as perverse or unsustainable. Finding no merit in the appeal, the same is accordingly dismissed and decree and judgment passed by both the Courts below is hereby affirmed.

15. Upon final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of as a necessary corollary. In view of the conclusions recorded here-in-above, no separate or specific orders are required to be passed in respect of such applications, the same having rendered themselves infructuous and purely academic.

02.02.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No