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

RSA-1168-2022 (O&M)

Date of Decision : 27.01.2026

Surjeet Singh & Ors

... Appellant(s)

Versus

Rajbir Singh (deceased) through LRs & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Singh Jattan, Advocate for the appellants.

ALKA SARIN, J. (Oral)

1. The present regular second appeal has been preferred by the plaintiff-appellants challenging the judgment and decree dated 24.05.2017 passed by the Trial Court and the judgment and decree dated 24.01.2022 passed by the First Appellate Court.

2. Briefly, the facts relevant to the present *lis* are that the plaintiff-appellants herein filed the present suit for declaration with consequential relief of possession and permanent injunction. It was the case set up by the plaintiff-appellants that Mam Raj son of Shri Sadhi Ram was the owner in possession of the suit land measuring 46 kanals 14 marlas fully described in the plaint. The said property came to the plaintiff-appellant Nos.1 to 4 vide a consent judgment and decree dated 18.09.1989 passed in Civil Suit No.785/1989. The said consent judgment and decree dated 18.09.1989 passed in CS No.785/1989 was set aside vide judgment and decree dated 16.05.2000 in Civil Suit No.341/98 of 1990 titled as **Rajbir & Ors. Vs. Surjit Singh &**

Ors. The defendant-respondents herein claimed their rights through Juni Devi daughter of Mam Raj, who had predeceased Mam Raj. An appeal was preferred against the judgment and decree dated 16.05.2000 by the plaintiff-appellant Nos.1 to 4 herein, however, the same was dismissed vide the judgment and decree dated 18.12.2002. Thereafter, a regular second appeal was filed which was also dismissed by this Court vide judgment dated 30.11.2003. Even a Special Leave Petition preferred by the plaintiff-appellant Nos.1 to 4 before the Hon'ble Supreme Court was dismissed on 12.08.2010. The challenge in the present suit is to the judgment and decree dated 16.05.2000 passed in Civil Suit No.341/98 of 1990 titled as **Rajbir & Ors Vs. Surjit Singh & Ors.** and all the subsequent orders passed on the appeals by the First Appellate Court, by this Court and the Hon'ble Supreme Court on the ground that the same was inoperative and based on fraud, forgery and cheating. It was further the case set up that the plaintiff-appellant Nos.5 and 6 were not parties to the said litigation. It was further the case set up that as per Section 8 of the Hindu Succession Act, 1956, the defendant-respondents could not become owners of the disputed property as the plaintiff-appellants are Class-II heirs of deceased - Mam Raj - being brother's sons and daughters. The defendant-respondents are sons and daughters of Smt. Juni having predeceased Mam Raj and that they are neither Class-I heirs nor Class-II heirs of Mam Raj. Hence, the present suit.

3. On notice, defendant-respondent Nos.1 to 4 and 7 to 10 filed their joint written statement raising various preliminary objections. It was stated that Mam Raj was the owner of the suit land and had only one daughter, namely, Smt. Juni. The plaintiff-appellant Nos.1 to 4 without having any right, title and interest, got the property transferred in their names on the basis of a

fictitious, forged and fabricated civil court decree and Will purportedly executed by Shri Mam Raj and got the possession of the aforesaid property. A suit for declaration was filed by the defendant-respondents herein against the plaintiff-appellant Nos.1 to 4 herein which was decreed vide the judgment and decree dated 16.05.2000. Aggrieved by the same, an appeal was preferred before the First Appellate Court against the judgment and decree dated 16.05.2000 by the plaintiff-appellant Nos.1 to 4 herein, however, the same was dismissed vide the judgment and decree dated 18.12.2002. Thereafter, the regular second appeal was also dismissed by this Court vide judgment dated 30.11.2003. Even a Special Leave Petition preferred by the plaintiff-appellant Nos.1 to 4 herein before the Hon'ble Supreme Court was also dismissed on 12.08.2010. Thereafter the defendant-respondents filed an execution petition and got the possession of the suit property on 25.02.2011. It was further the stand taken that the consent civil court decree dated 18.09.1989, Will dated 23.06.1989 and all subsequent mutations were challenged by the defendant-respondents in the civil suit and since the consent decree and the Will was only in favour of plaintiff-appellant Nos.1 to 4, there was no necessity to implead the plaintiff-appellant Nos.5 and 6 as parties. Infact, the plaintiff-appellant Nos.5 and 6 never remained owners in possession of the suit property in any capacity. It was further the stand taken that a criminal complaint had also been filed under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 against the plaintiff-appellant Nos.1 to 4.

4. Replication was not filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiffs are entitled to decree for possession and for declaration to the effect that the

impugned judgments and decrees dated 16.05.2000, 18.12.2002, 30.11.2003 and 12.08.2010 against the plaintiffs and mutation and other revenue record in favour of defendants on the basis of these decrees are illegal, null and void etc. as prayed for ? OPP

2. Whether the plaintiffs are entitled to decree for permanent injunction restraining the defendants from alienating, selling, transferring, mortgaging, leasing the suit land to any other stranger(s) and executing the impugned decrees forcibly and illegally and in any manner, as prayed for ? OPP

3. Whether the plaintiffs have concealed the true and material facts from this Court ? OPD

4. Whether the plaintiffs have no locus standi and cause of action to file and maintain the present suit ? OPD

5. Whether the plaintiffs are estopped by their own act and conduct from filing the present suit ? OPD

6. Whether the suit is time barred ?

7. Whether the suit has not been properly valued for the purpose of Court fee and jurisdiction ? OPD

8. Relief.

5. The Trial Court vide judgment and decree dated 24.05.2017 dismissed the suit. Aggrieved by the same, an appeal was preferred by the plaintiff-appellants herein which was also dismissed by the First Appellate Court vide judgment and decree dated 24.01.2022. Hence, the present regular second appeal.

6. Learned counsel for the plaintiff-appellants would contend that since the suit property was ancestral property and Juni had predeceased her father – Mam Raj, hence, the property was to devolve upon the plaintiff-appellants and could not go to her legal heirs. It is further the contention of the learned counsel that any transfer which had been done prior to the substitution by Act of 39 of 2005 (w.e.f 09.09.2005) to section 6 of the Hindu Succession Act, 1956 could not be re-opened.

7. I have heard the learned counsel.

8. In the present case, the plaintiff-appellant Nos.1 to 4 herein got a consent judgment and decree dated 18.09.1989 wherein Mam Raj was impleaded as the defendant. The said judgment and decree came to be challenged by the defendant-respondents herein by filing a Civil Suit No.341/98 of 1990 titled as **Rajbir & Ors. Vs. Surjit Singh & Ors.** The Trial Court decreed the said suit vide judgment and decree dated 16.05.2000. Aggrieved by the same, the plaintiff-appellant Nos.1 to 4 herein preferred an appeal before the First Appellate Court which appeal was also dismissed vide judgment and decree dated 18.12.2002. Thereafter, a regular second appeal was filed which was also dismissed by this Court vide judgment dated 30.11.2003. Still not satisfied, the plaintiff-appellant Nos.1 to 4 preferred a Special Leave Petition before the Hon'ble Supreme Court which was converted into a Civil Appeal and came to be dismissed vide order dated 12.08.2010. The execution petition was also allowed in favour of the defendant-respondents and they took possession of the suit property on 25.02.2011. Having defended the earlier suit and the consent decree dated 18.09.1989 and having lost upto the Hon'ble Supreme Court, the plaintiff-appellants filed the present suit bearing CS No.253 of 2014 challenging the

judgment and decree dated 16.05.2000 passed in CS-341/98 of 1990, judgment and decree passed by the First Appellate Court dated 18.12.2002, judgment passed by this Court dated 30.11.2003 and the order passed by the Hon'ble Supreme Court on 12.08.2010. Infact, what the plaintiff-appellants are now wanting to do is to set at naught all the judgments and decrees passed by the Trial Court, First Appellate Court, by this Court and the Supreme Court, whereby the judgment and decree dated 18.09.1989 was set aside. The plaintiff-appellants now want to reopen the whole issue by claiming that the suit property was ancestral in the hands of Mam Raj. The Trial Court returned a categoric finding that no revenue record had been produced to even remotely establish that the suit property was ancestral in nature. In the absence of any evidence having been led to even remotely show that the suit property was ancestral in nature, the property was held to be self-acquired in the hands of Mam Raj.

9. The argument of the learned counsel for the plaintiff-appellants that any transfer which was made prior to the 2005 substitution of Section 6 of the Hindu Succession Act, 1956 could not be reopened after the amendment cannot be accepted in view of the fact that the very nature of the land as being ancestral was not accepted by both the Courts. Further still, this was neither the plea raised in the plaint nor any such argument was raised before both the Courts. Learned counsel for the plaintiff-appellants has also not been able to point out to any evidence to show that the suit property was ancestral in nature. Once the judgment and decree dated 18.09.1989 was held be illegal, null and void upto the Hon'ble Supreme Court, the parties cannot be permitted to rake up the same issues again and again.

10. In the absence of any cogent or reliable evidence, no fault can be

found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

27.01.2026
Yogesh Sharma

(ALKA SARIN)
JUDGE

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