



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

1. **RSA-2654-2001 (O&M)**
Reserved on :-28.01.2026
Date of Pronouncement:-02.02.2026
Uploaded on:-04.02.2026

Smt. Somoti

... Appellant

Versus

Hoshiar Singh (since deceased) through LR's and Others

... Respondents

2. **COCP-546-2002 (O&M)**

Smt. Somoti

... Petitioner

Versus

Hoshiar Singh and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Ajay Jain, Advocate
for the appellant.

Mr. Vishal Aggarwal, Advocate and
Mr. G.S. Sarao, Advocate
for the respondents.

VIRINDER AGGARWAL, J.

1. This consolidated judgment governs the adjudication of the above-captioned Regular Second Appeal (hereinafter referred to as "RSA") and the connected Contempt of Courts proceedings (hereinafter referred to as "COCP"), both of which emanate from an identical factual substratum and raise overlapping questions of law. Having regard to the identity of



parties, the interlinked nature of the impugned decrees and proceedings, and with the consent of learned counsel appearing for the parties, both matters are being taken up and disposed of together in the interest of judicial economy, consistency of legal reasoning, and procedural efficiency.

1.1. At the instance of learned counsel appearing in the RSA as well as the COCP, the factual matrix relevant for the purposes of the present consolidated adjudication has been carefully culled out from the records of both proceedings, as the same provides the most complete, coherent, and accurate narration of the material facts necessary for effective determination. It is apposite to note that vide order dated **18.02.2003**, the aforesaid COCP was directed to be heard and decided conjointly with **RSA-2654-2001**.

2. This judgment, in particular, addresses the RSA filed by the appellant–plaintiff assailing the judgment and decree dated 04.06.2001 passed by the learned Additional District Judge-I, Narnaul, whereby the judgment and decree of the learned Trial Court were affirmed. The learned Trial Court, vide judgment and decree dated 19.08.1992, had dismissed the suit instituted by the appellant–plaintiff seeking a declaratory decree.

3. The core facts of the case, relevant for adjudication, are as follows:-

“The case set up by the plaintiff, as pleaded in the plaint, in brief, is that the plaintiff instituted a suit for declaration asserting that the impugned judgment and decree dated 23.12.1987 passed in Civil Suit No. 758, titled Hoshiar Singh etc. v. Smt. Surji, are erroneous, illegal, contrary to law, and liable to be set aside. Reference was made to the pedigree table incorporated in paragraph No. 2 of the impugned judgment,



depicting the relationship of the plaintiff with the parties. It was pleaded that the disputed land, comprised in Khewat No. 60, Khatoni No. 75, measuring 21 kanals 7 marlas, is ancestral qua the plaintiff, late Smt. Chawali (mother of defendants Nos. 1 to 3), and Smt. Surji. The plaintiff averred that the said property was illegally and wrongfully obtained by defendants Nos. 1 to 3 from Smt. Surji by virtue of the impugned judgment and decree dated 23.12.1987, which was allegedly procured by fraud, misrepresentation, and concealment of material facts. It was specifically pleaded that no family settlement had ever taken place between the parties. It was further asserted that Smt. Surji had earlier executed a registered Will dated 19.10.1976 bearing No. 32 in respect of the suit land in favour of the plaintiff, wherein it was expressly mentioned that the disputed house had been constructed by the plaintiff. On this basis, the plaintiff claimed entitlement to a 1/6th share in the disputed property. Despite repeated requests, the defendants failed to admit the claim of the plaintiff, which constrained him to institute the present suit.”

4. Upon entering appearance, the defendants contested the suit by filing a written statement, the substance of which is set out hereunder:-

*“By way of **preliminary objections**, they raised issues regarding the locus standi of the plaintiff and the maintainability of the suit, asserted that defendant No. 4 was the exclusive owner of the disputed property, pleaded estoppel, limitation, and sought the imposition of special costs.*



On merits, it was contended that the impugned judgment and decree dated 23.12.1987 passed in Civil Suit No. 758, titled Hoshiar Singh etc. v. Smt. Surji, had been lawfully and validly rendered in favour of defendants Nos. 1 to 3. All other averments and allegations made in the plaint were categorically denied.”

5. Thereafter, the plaintiff filed a replication, wherein the objections and averments raised in the written statement were categorically denied, while the pleadings and substantive assertions made in the plaint were reaffirmed. Upon a careful and comprehensive consideration of the pleadings of both parties and an evaluation of the respective factual and legal contentions, the Court found it appropriate to delineate the matters in controversy. Accordingly, with a view to facilitating a structured and effective adjudication of the dispute, the learned trial Court judiciously framed the following issues for determination:-

- 1- *“Whether the plaintiff is owner of the suit land ?OPP*
- 2- *Whether the judgement and decree dated 23-12-87 passed in civil suit No.758 titled as Hoshiar Singh Vs. Smt. Surji are illegal and not binding on the right of the plaintiff ?OPP*
- 3- *Whether the plaintiff has no locus-standi from filing the present suit ? OPD*
- 4- *Whether the plaintiff is estopped from filing the present suit by his act and conduct ?OPD*
- 5- *Whether the suit is time barred ?OPD*
- 6- *Relief.”*

5.1. Upon the settlement of issues, both parties were granted full and effective opportunity to lead their respective oral as well as documentary evidence. After a meticulous and comprehensive evaluation of the entire evidentiary material on record, along with due consideration of the



submissions advanced, the learned Additional Senior Sub-Judge dismissed the suit. Aggrieved thereby, the appellant–plaintiff preferred an appeal before the learned Additional District Judge-I, Narnaul. The learned First Appellate Court, upon a reappraisal of the matter, concurred with the findings recorded by the learned trial Court and dismissed the appeal. Still dissatisfied with the concurrent findings returned by the Courts below, the appellant–plaintiff has approached this Court by way of the present RSA seeking comprehensive adjudication.

5.3. During the pendency of the RSA, the appellant-plaintiff preferred a petition under Sections 11 and 12 of the COCP, invoking the contempt jurisdiction of this Court on account of willful, deliberate, and contumacious disobedience of the order dated 03.10.2001 passed by this Court in Regular Second Appeal No. 2654 of 2001, titled Smt. Somoti v. Hoshiar Singh and Others.

6. The appellant has invoked the jurisdiction of this Court by way of the present RSA. Upon a *prima-facie* scrutiny, the appeal was found to raise substantial and arguable questions of law and fact, warranting detailed adjudication, and was accordingly admitted for regular hearing. Pursuant thereto, notices were issued to the respondents, who entered appearance through their counsel and robustly opposed the appeal at the stage of final arguments.

6.1. For a thorough, comprehensive, and judicious determination of the issues arising in the present appeal, the entire record of the lower Courts, including pleadings, evidence, and orders, was summoned and placed before this Court. The record was meticulously examined in its entirety, ensuring



that the adjudication rests upon a complete, accurate, and legally coherent understanding of the factual and legal matrix underlying the dispute.

7. I have heard learned counsel for the parties at considerable length and have bestowed my anxious, thoughtful, and deliberate attention to the submissions advanced, against the backdrop of the pleadings of the parties, the entirety of the evidence adduced, and the concurrent findings recorded by the Courts below. The record of the lower Courts has been examined with meticulous care and in its entirety, with a view to assessing, *‘whether the impugned judgments and decrees are tainted by any jurisdictional infirmity, patent illegality, manifest perversity, or misappreciation of evidence, such as would justify interference by this Court in the exercise of its appellate jurisdiction. In undertaking this exercise, due regard has been paid to the principles of law governing the scope of appellate review, ensuring that conclusions are drawn upon a legally coherent, factually substantiated, and judicious basis’?*

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 for the appellants submitted that, in the absence of any pre-existing right in favour of defendants No. 1 to 3 in the suit property, the consent decree dated 23.12.1987 was compulsorily registrable, and that the learned First Appellate Court failed to properly appreciate and adjudicate this material issue. It was further contended that the question of compulsory registration of a consent decree is a pure question of law, which does not require specific pleading and can validly be raised even at the appellate stage. Learned counsel argued that the rejection of this plea by the learned First Appellate Court, merely on the ground that the application for amendment of the plaint had been dismissed, is legally unsustainable.

9.1. It was also submitted that the learned First Appellate Court erred in holding that the appellants had no locus standi to assail the judgment and decree suffered by Surji on the premise that Surji alone was competent to challenge the same. The learned First Appellate Court, according to the appellants, failed to notice that Surji had appeared as a witness on behalf of the plaintiffs and had categorically deposed that the decree in question was procured from her by playing fraud. On these premises, learned counsel for the appellants prayed that the appeal be allowed and the impugned judgment and decree be set aside.

10. Per contra, learned counsel appearing for the respondents/defendants submitted that the findings recorded by the learned First Appellate Court suffer from no illegality or infirmity. It was contended that the appeal is devoid of merit and deserves to be dismissed, with affirmation of the impugned judgment and decree.



11. The plea advanced by the appellants/plaintiffs that the suit property was ancestral and coparcenary in the hands of Surji remained wholly unsubstantiated, as no legally admissible evidence was adduced in support thereof. The suit property was, therefore, rightly held to be the self-acquired property of Surji, rendering her the absolute owner thereof. Being the absolute owner, Surji was fully competent to deal with and dispose of the property in any manner of her choosing. The appellants/plaintiffs, having no right, title or interest in the suit property during the lifetime of Surji, lacked the requisite locus standi to challenge the judgment and decree suffered by Surji in favour of the remaining defendants.

12. It was incumbent upon Surji herself to assail the judgment and decree so suffered by her. However, she failed to do so. Merely because she appeared as a witness on behalf of the plaintiffs does not amount to a legal challenge to the judgment and decree passed against her. During the lifetime of Surji, the appellants/plaintiffs, who had no vested or subsisting right in the suit property, could not maintain a challenge to the decree. Significantly, in the present suit, Surji was arrayed as one of the defendants, thereby further reinforcing the position that the appellants/plaintiffs possessed no enforceable right, title or interest in the suit property during her lifetime.

13. Learned counsel for the appellants further contended that the learned First Appellate Court erred in holding that the appellants were not entitled to assail the judgment and decree on the ground that the same was unregistered, despite affecting immovable property of a value exceeding ₹100/-, and thus requiring compulsory registration. In support of this contention, reliance was placed upon the judgment of this Court in ***Balbir Singh v. Bant Singh, 1996 (3) RCR (Civil) 351***. In the said case, the



plaintiffs, being legal heirs of Chet Singh, had challenged a judgment and decree suffered by Chet Singh, and this Court held that the plaintiffs were competent to assail the decree on the ground of non-registration, there being no pre-existing rights in favour of the defendants in whose favour the decree was suffered.

14. However, the facts of the said decision are clearly distinguishable. In **Balbir Singh's** case (supra), the judgment and decree were challenged after the death of Chet Singh, when the plaintiffs claimed an independent right in the suit property after death of Chet Singh. In the present case, Surji was very much alive at the time of institution of the suit and was arrayed as one of the defendants. Where a document purporting to convey title in immovable property is alleged to be invalid for want of registration, such challenge can be raised either by the registering authority or by a person having a semblance of right, title or interest in the property affected thereby. The appellants/plaintiffs, having no such right, title or interest during the lifetime of Surji, were complete strangers to the suit property, possessing at best a mere expectancy to succeed to the property in the event Surji neither transferring the property during her lifetime nor making any testamentary disposition thereof. Such a contingent expectancy does not confer any *locus standi* to maintain a challenge to a document on the ground of non-registration. If suit is allowed to be filed in such eventuality, it would open flood gates for persons who intend to disturb the settled relations and transactions.

14.1. In view of the foregoing discussion, this Court finds no merit in the present appeal. The same is accordingly **dismissed** as being devoid of substance.



15. Insofar as the COCP is concerned, the same was instituted alleging violation of the order dated 03.10.2011 passed by this Court in RSA No. 2654 of 2001, titled Smt. Somti v. Hoshiar Singh and Others. It is alleged that respondent Nos. 1 to 3 executed a sale deed in respect of a part of the suit property in favour of respondent No. 4 on 20.11.2001. However, there is no material on record to establish that the respondents had been served with or were otherwise aware of the ex parte injunction order passed by this Court at the relevant time. The record further reveals that the respondents entered appearance in the appeal only on 15.02.2002. In the absence of any cogent evidence demonstrating that respondent Nos. 1 to 4 had knowledge of the injunction order or had wilfully and deliberately violated the same, the essential ingredients for initiating contempt proceedings are not made out. Consequently, the COCP is **dismissed**.

16. In consequence of the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, stand disposed of as a necessary corollary. In view of the conclusions recorded here-in-above, no separate or further orders are warranted in respect of such applications, the same having become infructuous.

17. It is further directed that a copy of this order be placed on the connected file for purposes of record, ready reference, and for taking such consequential steps as may be required in accordance with law.

02.02.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No