



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-937-2012(O&M)

Date of decision: 19.01.2026

Darshani Devi & Others

...Appellant(s)

Vs.

Balwant Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rajinder Goyal, Advocate
for the appellants.

Mr. Piyush Aggarwal, Advocate
for the respondents.

NIDHI GUPTA, J.

The plaintiffs are in second appeal against the concurrent judgments and decrees of the learned Courts below whereby suit filed by the appellants for declaration that the collusive Consent Decree dated 16.05.1983 entered into between the defendants with each other as illegal, null and void, has been dismissed by both the Courts below.

2. Vide impugned judgments and decrees, the learned Courts below have dismissed the suit of the appellants.

3. It is inter alia submitted by learned counsel for the appellants that the learned Courts below were in error in non-suiting the appellants as, while passing the impugned judgment and decree, the learned courts below



failed to consider that the facts alleged by defendants in the civil suit No.3/CS/1983 titled as “Balwant Singh Etc. Vs. Maru Ram Etc.” which led to the passing of the decree dated 16.5.1983, it is clear that Maru Ram while filing the written statement has not accepted the claim of the plaintiffs in that suit; and later on the defendants are shown to have entered into an compromise, whereas no such compromise was entered into by Maru Ram and nor Maru Ram was having any power to enter into such compromise.

4. It is further submitted that while passing the impugned judgments and decrees, the courts below erred in giving undue weightage to the evidence of DW-8 and DW-9 Chuhra Ram and Juna Ram respectively who have given wrong and false evidence. Juna Ram has already been challaned under section 182 of IPC for giving false evidence and their evidence cannot be taken into consideration.

5. It is accordingly prayed that the impugned judgments and decrees be set aside.

6. Per contra, at the very outset, learned counsel for the defendants submits that the present Civil Suit is not maintainable in terms of the judgment of the Hon’ble Supreme Court in “**Manjunath Tirakappa Malagi & Another Vs. Gurusiddappa Tirakappa Malagi (Dead through Lrs)**” **2025 SCC OnLine SC 835 decided on 21.04.2025.**

7. No other argument is made on behalf of the parties.

8. I have heard learned counsel and perused the case file in detail.



9. By way of the present Civil Suit, the appellants/plaintiffs are seeking declaration to the effect that the consent decree dated 16.05.1983 passed in Civil Suit No.3/CS/1983 titled as "Balwant Singh Etc. Vs. Maru Ram Etc.", is illegal, null and void. Learned counsel for the appellants is unable to dispute that vide the judgment in **Manjunath (supra)**, the Hon'ble Supreme Court has held as follows:-

"11. Also, a compromise decree cannot be challenged by filing a fresh suit as there is a bar on filing a fresh suit challenging the consent decree on the ground of the legality of the compromise under Order 23 Rule 3A of CPC, which reads as follows:

"3-A. Bar to suit.- No suit shall lie to set aside a decree on the ground that the compromise on which the decree is based was not lawful."

12. The only remedy against a compromise decree is to file a recall application. This Court in Pushpa Devi Bhagat v. Rajinder Singh, (2006) 5 SCC 566 summed up the position of law as follows:

"17. The position that emerges from the amended provisions of Order 23 can be summed up thus:

(i) No appeal is maintainable against a consent decree having regard to the specific bar contained in Section 96(3) CPC.

(ii) No appeal is maintainable against the order of the court recording the compromise (or refusing to record a compromise) in view of the deletion of clause (m) of Rule 1 Order 43.

(iii) No independent suit can be filed for setting aside a compromise decree on the ground that the compromise was not lawful in view of the bar contained in Rule 3-A.

(iv) A consent decree operates as an estoppel and is valid and binding unless it is set aside by the court which passed the consent decree, by an order on an application under the proviso to Rule 3 Order 23.



Therefore, the only remedy available to a party to a consent decree to avoid such consent decree, is to approach the court which recorded the compromise and made a decree in terms of it, and establish that there was no compromise. In that event, the court which recorded the compromise will itself consider and decide the question as to whether there was a valid compromise or not. This is so because a consent decree is nothing but contract between parties superimposed with the seal of approval of the court. The validity of a consent decree depends wholly on the validity of the agreement or compromise on which it is made..."

(Emphasis Provided)

Thus, even if we accept the contention of the appellants that their father was coerced by his brothers and father (appellants' grandfather) to enter into a compromise, which led to the passing of the consent decree, a fresh suit is still not a valid remedy. In that situation, the appellants' father should have filed a recall application before the Court that had passed the decree. The appellants' father has never done so! Moreover, he had admitted the consent decree and never questioned its validity.

13. Additionally, the appellants' argument that the suit property is not a joint family property but was purchased by their grandmother in the name of the appellants' father and that he is now trying to deprive the appellants from the suit property as their relations have turned sour, is of no help to them. This is because if the appellants' grandmother had purchased the suit property in the name of the appellants' father, and it is not a part of the ancestral property then in that case it would be the property of the appellants' father as of now, since he is alive, and he is at full liberty to dispose of the same as per his wishes. Be that as it may, if the father of the appellants has no grievance against the consent decree, then we are unable to understand how the appellants can be allowed to challenge it."



10. Thus, as per law, in terms of the above judgment, for setting aside the decree dated 16.5.1983, the appellants were required to file an application before the very Court that passed the said decree dated 16.05.1983. A separate Civil Suit, as in the instant case, could not have been instituted for setting aside the said decree. Learned counsel for the appellants is unable to dispute or controvert the above position in law, as per which, the present Suit was not maintainable. Therefore, the present appeal is **dismissed**. However, liberty is granted to the appellants to seek recourse to alternative remedy, as per law, if any.

11. Pending application(s) if any also stand(s) disposed of.

19.01.2026
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No