

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

DATE OF DECISION: NOVEMBER 18, 2015

1. C.M. Nos.7418 to 7421 C of 2011 & R.S.A. No.2740 of 2011

Roop Singh and others

.....Appellants

VERSUS

Hanuman Singh

....Respondent

2. C.M. Nos.7428 to 7431 C of 2011 & R.S.A. No.2745 of 2011

Roop Singh and others

.....Appellants

VERSUS

Hanuman Singh

....Respondent

3. C.M. Nos.7432 to 7435 C of 2011 & R.S.A. No.2746 of 2011

Surender Singh and others

.....Appellants

VERSUS

Hanuman Singh

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Gorakh Nath, Advocate,
for the appellants.

Mr. R. N. Lohan, Advocate,
for the respondent.

AUGUSTINE GEORGE MASI, J. (ORAL)

C.M. No.7418 C of 2011 in R.S.A. No.2740 of 2011,
C.M. No.7428 C of 2011 in R.S.A. No.2745 of 2011 &
C.M. No.7432 C of 2011 in R.S.A. No.2746 of 2011

In the applications, prayer is for condonation of delay of 140, 133 and 134 days respectively in refiling the appeals.

As per the counsel, certain objections were raised by the Registry and the files were returned to the Clerk of the counsel, who got the same mixed up in the decided cases due to which the said delay has occurred. It only came to notice, when applicant-appellant, Roop Singh, enquired about the status of the case and then the files were located and after removing the objections, the same were refiled. The said assertions in the application are duly supported by an affidavit of the Clerk of the counsel.

In view of the above, the applications stand allowed and delay in refiling the appeals stands condoned.

C.M. No.7419 C of 2011 in R.S.A. No.2740 of 2011,
C.M. No.7429 C of 2011 in R.S.A. No.2745 of 2011 &
C.M. No.7433 C of 2011 in R.S.A. No.2746 of 2011

C.Ms are allowed.

Exemption is granted from filing the certified copies of the impugned judgement and the decree of the learned trial Court.

C.M. No.7420 C of 2011 in R.S.A. No.2740 of 2011,
C.M. No.7430 C of 2011 in R.S.A. No.2745 of 2011 &
C.M. No.7434 C of 2011 in R.S.A. No.2746 of 2011

Present applications have been moved for condonation of delay of 6 days, 5 days and 2 days respectively in filing the appeals.

As per the counsel, the said delay has occurred due to financial crunch, which the applicant-appellants were facing, they being very poor persons. The applications are duly supported by separate affidavits of applicant-appellant, Roop @ Rup Singh.

In view of the above, the applications are allowed and delay in filing the appeal stand condoned.

R.S.A. Nos.2740, 2745 and 2746 of 2011

Challenge in these three appeals is to the judgement and decree passed by the Civil Judge (Junior Division), Fatehabad dated 07.11.2008, vide which three suits preferred by the appellant-plaintiffs were dismissed, against which the appeals preferred were also dismissed by a common judgement by the Additional District Judge, Fatehabad, on 26.07.2010. For the sake of convenience, the facts have been taken from R.S.A. No.2740 of 2011.

Three suits for declaration were filed by the appellant-plaintiffs, challenging the judgements and decrees dated 11.05.1987, 16.05.1987 and 20.05.1987 passed by the Senior Sub Judge, Fatehabad, on the ground that the same were result of fraud and against the law and, therefore, liable to be set-aside. Prayer was also made for the relief of injunction, restraining the respondent-defendant from selling the ownership rights of the land on the basis of the said judgements and decrees. On the basis of the pleadings and the evidence led by the parties, the trial Court came to a conclusion that the appellant-plaintiffs have not been able to prove that the judgements and decree impugned were not in accordance with law or that the same were result of a fraud. They have also been failed to establish that there was a mutual exchange of land between the parties

and that they did not get anything as a result thereof.

It is the contention of learned counsel for the appellants that the Courts below have not properly appreciated the evidence, which has been led by the parties, especially that of the appellant-plaintiffs, which clearly establishes that the impugned judgements and decree were not in consonance with law and was result of fraud having been played upon them by the respondent-defendant. He contends that the judgements and decree passed by the Courts below, therefore, deserve to be set-aside and the suits of the appellant-plaintiffs be decreed.

On the other hand, counsel for the respondent asserts that the judgements passed by the Courts below are without any flaw and, thus, may be upheld.

On considering the submissions made by counsel for the parties and on going through the judgements passed by the Courts below with their assistance, I am of the considered view that the assertions as made by counsel for the appellants cannot be accepted.

The Courts below have rightly appreciated the pleadings and the evidence, which have been brought on record. As per the assertion of the appellant-plaintiffs, they were required to prove that a fraud was played upon them and that the decrees were the result of the same and, thus, the decrees were not legally passed. However, no evidence has come on record, which would substantiate said assertion of the appellant-plaintiffs. The findings, thus, recorded by the Courts below cannot be faulted with as the same are in consonance with the settled principles of law.

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the

parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the appeals. Therefore, finding no merit in the present appeals, the same stands dismissed.

Since the main appeals stand dismissed, C.M. No.7421 C of 2011 in R.S.A. No.2740 of 2011, C.M. No.7432 C of 2011 in R.S.A. No.2745 of 2011 and C.M. No.7435 C of 2011 in R.S.A. No.2746 of 2011 for grant of stay are also dismissed.

November 18, 2015
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE