

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102

Date of decision: 16.11.2015

**C.M. Nos. 14537-38-C of 2011 and
RSA No. 4988 of 2011**

Chandu (since deceased) through his L.R.

....APPELLANT

VERSUS

Nathu

....RESPONDENT

**C.M. Nos. 14539-40-C of 2011 and
RSA No. 4989 of 2011**

Chandu

....APPELLANT

VERSUS

Surinder alias Shyam Sunder and another

....RESPONDENTS

**C.M. Nos. 14541-42-C of 2011 and
RSA No. 4990 of 2011**

Chandu (since deceased) through his L.R.

....APPELLANT

VERSUS

Mula

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. P.S.Jammu, Advocate,
for the applicant/appellant(s).

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 14537-C of 2011 in RSA No. 4988 of 2011

Prayer in this application is for condonation of delay of 181
days in re-filing the appeal.

The ground for the delay is stated to be that after the return of

the paper-book by the Registry, as the objections were raised, the same was put in the wrong brief by the clerk of the counsel, because of which, the paper-book was not traceable. With great efforts, the same was found and after the removal of the objections, the appeal was re-filed, which resulted in delay of 181 days in re-filing the appeal. The application is duly supported by the affidavit of the clerk of the counsel.

For the reasons mentioned in the application, the same is allowed. Delay of 181 days in re-filing the appeal stands condoned.

C.M. No. 14539-C of 2011 in RSA No. 4989 of 2011

Prayer in this application is for condonation of delay of 181 days in re-filing the appeal.

The ground for the delay is stated to be that after the return of the paper-book by the Registry, as the objections were raised, the same was put in the wrong brief by the clerk of the counsel, because of which, the paper-book was not traceable. With great efforts, the same was found and after the removal of the objections, the appeal was re-filed, which resulted in delay of 181 days in re-filing the appeal. The application is duly supported by the affidavit of the clerk of the counsel.

For the reasons mentioned in the application, the same is allowed. Delay of 181 days in re-filing the appeal stands condoned.

C.M. No. 14541-C of 2011 in RSA No. 4990 of 2011

Prayer in this application is for condonation of delay of 141 days in re-filing the appeal.

The ground for the delay is stated to be that after the return of the paper-book by the Registry, as the objections were raised, the same was put in the wrong brief by the clerk of the counsel, because of which, the

paper-book was not traceable. With great efforts, the same was found and after the removal of the objections, the appeal was re-filed, which resulted in delay of 141 days in re-filing the appeal. The application is duly supported by the affidavit of the clerk of the counsel.

For the reasons mentioned in the application, the same is allowed. Delay of 141 days in re-filing the appeal stands condoned.

RSA Nos. 4988 to 4990 of 2011

By this order, I propose to dispose of three appeals i.e. RSA Nos. 4988 to 4990 of 2011. For convenience, facts are being taken from RSA No. 4988 of 2011.

Challenge in this appeal is to the concurrent findings returned by the Civil Judge (Senior Division), Sirsa on 29.10.2009 recorded in paras 13 and 14, according to which, the suit preferred by the appellant-plaintiff for seeking possession of the property on the ground that the respondents had taken possession of the property from him, has been found to be not proved by him. The said findings have been upheld by the Additional District Judge, Sirsa on 12.01.2011 in an appeal preferred by the appellant-plaintiff.

It is the contention of the learned counsel for the appellant that the findings recorded by the Courts below cannot be sustained as they are not as per the evidence, which has been produced by the appellant-plaintiff which clearly establishes that the possession of the land has been taken forcibly by the respondents-defendants. He contends that although the finding has been recorded that the appellant is the owner of the property but since he has not been able to show that the possession has been taken by the respondents forcibly and they are encroachers, the findings cannot be

sustained.

I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the judgments passed by the Courts below but am unable to agree with him.

The Courts below have rightly appreciated the evidence, which has been brought on record and also considered the pleadings in the correct perspective, which do not call for any interference by this Court.

There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

In view of the above, finding no merit in these appeals, the same stand dismissed.

C.M. No. 14538-C of 2011 in RSA No. 4988 of 2011
C.M. No. 14540-C of 2011 in RSA No. 4989 of 2011
C.M. No. 14542-C of 2011 in RSA No. 4990 of 2011

In view of the dismissal of the main appeals, no separate orders are required to be passed in these applications for stay and, therefore, the same stand dismissed.

November 16, 2015

pj

(AUGUSTINE GEORGE MASIH)
JUDGE