

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.4014 of 2012 (O&M)

Date of Decision: February 06, 2015

Mange Ram

...Appellant

Versus

Rameshwar and others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.C.B.Kaushik, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.10883-C of 2012

For the reasons mentioned in the application, which is supported by an affidavit, delay of 77 days in re-filing the appeal is condoned.

CM stands disposed of.

RSA No.4014 of 2012

This is a Regular Second Appeal at the instance of the appellant-plaintiff, whose suit for declaration and permanent injunction challenging the decree dated 29.3.1997 passed in Civil Suit No.55 of 1996, titled as Rameshwar Versus Surajbhan, has been dismissed by the trial Court and the appeal filed against the aforementioned judgment and decree

has also been dismissed.

Mr.C.B.Kaushik, learned counsel appearing for the appellant, in support of the grounds of appeal, submits that both the Courts below have committed illegality and perversity in dismissing the suit and as well as the appeal, as defendant No.2 Suraj Bhan, who was none else but brother of the appellant-plaintiff, was a mentally disabled person and was not able to look after his interest and, therefore, decree passed against him without appointing a guardian was nullity. He further submits that defendant No.2 did not appear in the earlier suit nor engaged any counsel nor suffered any statement and, therefore, defendant No.1, who is claiming the ownership of the suit property on the basis of the decree, cannot be declared to be owner and, therefore, the decree was liable to be set-aside.

I have heard the learned counsel appearing for the appellant. I am afraid, the aforementioned contention of the learned counsel for the appellant is devoid of merit for the reasons that it has been proved on record that Suraj Bhan has put in appearance and engaged a counsel and suffered a statement. No evidence has been led nor proved that he was mentally sick and, therefore, there was no question of appointing any guardian. Both the Courts below have rendered a finding of fact and law, based on the appreciation of oral and documentary evidence. No substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

February 06, 2015
ramesh

(AMIT RAWAL)
JUDGE