

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

RSA No.4919 OF 2012 (O&M)
DATE OF DECISION : 13th AUGUST, 2015

Balwinder Singh & others

.... Appellants

Versus

Harpal Singh & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. V. K. Sandhir, Advocate for the appellants.

Mr. G. S. Nagra, Advocate for the respondents.

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SURINDER GUPTA, J. (ORAL)

CM-13711-C-2012

Learned counsel for the applicant-appellants submits that the appellants are old and illiterate persons besides they could not arrange money for filing the instant appeal, which resulted in 126 days of delay in filing the appeal.

In view of the submissions made by learned counsel for the applicant-appellants and keeping in view the fact that the applicant-appellants has not gained due to the delay in filing the appeal, the delay of 126 days in filing the appeal is condoned.

The application stands allowed accordingly.

RSA NO.4919 OF 2012

The plaintiffs-appellants filed civil suit claiming the relief of injunction to restrain the defendants-respondents from interfering in their possession over the suit land bearing khasra Nos.41/6 (4-0), 41/12/5(1-4)

and 41/14 (8-0) total 13 kanal 4 marlas situated in the area of Village Wadala Veeram, Tehsil and District Amritsar.

The defendants-respondents contested the claim of plaintiffs alleging that the land in dispute is owned by the defendants and the plaintiffs are the tenants over the disputed property. They further pleaded that legal recourse has been adopted to take the possession of the suit property in due course of law and no attempt has been made to forcibly dispossess the plaintiffs.

The trial Court dismissed the suit with the observations that the plaintiffs have not been able to produce any evidence. Two witnesses examined by the plaintiffs were not cross-examined, as such, their testimony cannot be looked into. Not satisfied, the plaintiffs filed appeal which was decided by the learned Additional District Judge, Amritsar vide judgment dated 02.02.2012. The appellate court took note of the fact that cross-examination of one of the witness examined by the plaintiffs-appellants, PW-1-Sohan Singh was conducted wherein he has stated that the defendants have never tried to dispossess the plaintiffs forcibly from the suit land or have ever threatened to dispossess them from the suit property. Taking note of the fact that there was no threat to the plaintiffs; even as per the pleadings of the defendants-respondents, plaintiffs are in possession of the suit land, the appeal was also dismissed with the observation that in the event of any threat apprehension in future the plaintiffs may institute a fresh suit.

I have heard learned counsel for the parties and perused the case file with their assistance.

After arguing for some time learned counsel for the appellant submits that as the appellate court has given the liberty to the appellants to file a fresh suit as and when there is any threat apprehension. The plaintiff will avail that remedy because their possession is not disputed. In view of this fact learned counsel for the appellants seeks permission to withdraw the instant appeal.

Dismissed as withdrawn.

13th August, 2015
'raj'

(SURINDER GUPTA)
JUDGE