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

**RSA No.3333 of 2013 (O&M)
Date of Decision: 30.10.2015**

GURDEEP SINGH

.....Appellant

Vs

PURAN SINGH & ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rahul Rampal, Advocate
for the appellant.

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?*

RAJ MOHAN SINGH, J.(Oral)

CM No.8926-C of 2013

Prayer in this application is for condonation of delay of 4 days in filing the appeal.

Since the appeal is being decided on merits, this Court feels like to condone the delay, in view of averments made in para No.2 of the application.

Consequently, delay of 4 days in filing the appeal is condoned.

Application stands disposed of.

RSA No.3333 of 2013 (O&M)

[1]. Plaintiff No.4 is in second appeal in a suit for declaration

and possession.

[2]. Plaintiffs sought declaration to the effect that entries in the revenue record for the years 1972-73, 1977-78, 1982-83 and 1987-88 in the name of Balvir Singh @ Dalbir Singh son of Bhan Singh @ Bhagwan Singh to the extent of 1/3rd share in the land measuring 23 *Kanals* 16 *Marlas* is illegal and is liable to be corrected by showing defendants No.1 to 2 to be the owners to the extent of 1/4th share. Balvir Singh has to be shown owner to the extent of 1/12th share.

[3]. Plaintiffs also challenged sale deed and mutation No.2270 in respect of 7 *Kanals* 16 *Marlas* of land from Balvir Singh in favour of defendant No.3 Ranjit Kaur and one Sukhpal Singh to be illegal. Similarly they also sought annulment of sale deed and mutation No.2441 by defendant No.3 in favour of defendants No.4 in respect of 6 *Kanals* of land.

[4]. Plaintiffs also sought possession as owners in respect of 10 *Kanals* 17 *Marlas* of land and also 3/9th share of 16 *Kanals* of land as per *jamabandi* for the year 1997-98 on the basis of civil Court decree dated 17.05.45 passed in case No.168 dated 14.04.44.

[5]. According to aforesaid decree Balvir Singh suffered decree in favour of Resham Singh. The suit was decreed on payment of Rs.200/-. Besides the aforesaid claim, it has also been claimed that Balvir Singh sold 12 *Kanals* 5 *Marlas* of land being 1/4th share of 49 *Kanals* 1 *Marla* of land, 7 *Marlas* of land being 1/4th of 1 *Kanal* 10 *Marlas*, 10 *Marlas* of land being 1/4th share of 1 *Kanal* 19 *Marlas*, 10

Marlas of land being 1/12th share of 6 *Kanals* 2 *Marlas* and 3 *Marlas* of land being 1/18th share of 7 *Kanals* 7 *Marlas* of land besides share in *shamlat* land as per *jamabandi* for the year 1940-41.

[6]. Balvir Singh @ Dalbir Singh sold land to one Chanchal Singh and mutation No.443 dated 28.03.89 for a consideration of Rs.220/-. Property was claimed to ancestral coparcenary property which was sold without consideration and legal necessity. Plaintiff and his brothers namely Resham Singh and Mahanta Singh challenged the sales made by Balvir Singh in civil suit No.168 dated 14.04.1944.

[7]. The said suit was decreed on 17.05.45. Reversionary rights after the death of Balvir Singh were acknowledged and granted on payment of Rs.220/- to the vendee Chanchal Singh. Balvir Singh died on 18.08.99. Even Resham Singh decree-holder died and his heir namely Gurcharan Singh inherited the property vide mutation No.881 on 26.10.48. Aforesaid Gurcharan Singh also died and mutation was sanctioned in favour of his mother namely Tej Kaur on 10.02.49.

[8]. Both the Courts below have considered the aforesaid facts and came to the conclusion that in view of decree already passed on 17.05.45, present suit is not maintainable on same cause of action because equally efficacious remedy in terms of Civil Procedure Code is available to the plaintiffs. Even the amount in question i.e. Rs.220/- has not been deposited so far, rather PW-1 Nachattar

Singh while appearing in Court has deposed that amount was deposited, but as a matter of fact that plea was found to be wrong and the Courts below have observed that the person who has not come to the Court with clean hands does not deserve any equitable relief. Since the plaintiff has tried to mislead the Court, therefore, can be thrown at any stage of litigation. The findings recorded by both the Courts below on broader aspect of the case in considered opinion of this Court are not perverse and are not the result of any misreading of evidence. This Court does not find any ground to interfere.

[9]. Resultantly, no law point worth consideration is involved in this appeal, consequently finding no merit in this appeal, the same is accordingly dismissed.

October 30, 2015

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(RAJ MOHAN SINGH)
JUDGE