

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

(133)

**CM-10739-C-2013 in/and
RSA-3980-2013
DATE OF DECISION: 21.09.2015**

SHANTI AND ORS

.....Appellant

VERSUS

RAMESHWER DASS AND ANR

....Respondents

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?
6. Whether the judgment should be reported in the Digest?

Present: Mr. M.S. Kathuria, Advocate
for Mr. Rakesh Nehra, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-10739 of 2013

Prayer in this application is for condonation of delay of 86 days in filing the appeal. For the reasons mentioned in the application, which is duly supported by an affidavit, delay of 86 days in filing the appeal stands condoned.

RSA-3980-2013

Challenge in this appeal is to the judgment and decree passed by the Courts below, whereby the suit of the respondent-plaintiff stands decreed by the Civil Judge (Junior Division), Rohtak dated 30.04.2009 declaring the respondent-plaintiff to be the owner of the property in dispute and the order dated 21.06.1976 shown in mutation No.5609 and the order dated 28.11.1977 by which the land

was allotted to appellant-defendant No.2-Kartar Singh is null and void. Appeal preferred against the said order by the appellant-defendant stands dismissed by the Additional District Judge, Rohtak on 05.03.2013.

It is the contention of the learned counsel for the appellants that the findings recorded by the Courts below cannot be sustained specially with regard to the maintainability of the suit as the Civil Court had no jurisdiction to try the present suit as this land pertained to a surplus land and the said land having been declared surplus at the hands of Ram Chander, the same has not been challenged under the provisions as provided under The Haryana Ceiling on Land Holding Act, 1972. He further contends that the suit was barred by limitation and therefore, could not have been entertained by the Civil Court.

I have considered the submissions made by the learned counsel for the appellants-defendants and have gone through the judgments passed by the Courts below with his able assistance. None of the contentions as has been raised by the counsel for the appellants can be accepted as no evidence has been brought on record which would show that the land in question was ever declared as surplus at the hands of Ram Chander. No order declaring such a land as surplus, has been produced by the appellant-defendant or the proforma-respondent-State of Haryana. In the absence of any documentary evidence in support of the assertion of the defendants that the land was declared as surplus land and was therefore,

subsequently allotted to the defendant No.2-Kartar Singh can not be accepted. The Courts below have, therefore, rightly come to the conclusion that the declaration sought, deserved to be accepted and has accordingly decreed the suit.

The assertion of the learned counsel for the appellants that suit was barred by time and therefore, could not have been entertained again requires to be mentioned and rejected as there is no time limit prescribed where the suit is in substance with regard to the title to the property as in the present case. The finding recorded by the Courts below on this count also therefore, do not call for any interference.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

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

September 21, 2015
SwarnjitS

**(AUGUSTINE GEORGE MASIH)
JUDGE**