

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4101 of 2013(O&M)

Date of decision : December 8, 2015

Hari Om

..... Appellant

Versus

Murari and others

..... Respondents

CORAM:

HON'BLE MR. JUSTICE AMIT RAWAL

Present:-

Mr. Sumit Kumar, 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?

Amit Rawal, J (oral).

CM No.11088-C of 2013

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 68 days in refiling the appeal is condoned.

The application stands disposed of.

RSA No. 4101 of 2013(O&M)

The appellant-plaintiff is in Regular Second Appeal against the concurrent finding of fact whereby the suit for declaration with claiming consequential relief of permanent and mandatory injunction has been dismissed by both the courts below.

The case set up by the appellant-plaintiff was that they were in peaceful possession of the property and sought injunction against the respondents not to raise construction. The declaration was sought on the basis of ownership and possession.

Learned counsel appearing on behalf of the

appellant-plaintiff submits that both the courts below have committed illegality and perversity in dismissing the suit as umpteen number of documents have been placed on record to show that injunction, much less declaration could have been granted and thus, prays that substantial question of law arise for determination by this Court.

I have heard learned counsel for the appellant and appraised the paper book.

The facts brought on record , particularly Ex. P-3 proves that previously Hari Ram was owner in possession of the suit property. As per record of Bandobast Khasra Nos. 9221 and 9222 are owned by Karam Ali. The documents brought on record by the appellant-plaintiff did not mention about the number.

In my view, both the courts below have given a categoric finding that Moti Ram-plaintiff failed to prove the ownership. The land in question was allotted to Moti Ram in the year 1865. Had it been so, his name would have been reflected in the column of owners. Injunction was sought with regard to the Well. Relevant record of the suit property has not been produced on record. Simply on the basis of Ex.P-3 the plaintiff cannot be given a declaration and ownership.

Keeping in view the aforementioned facts, I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for

determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

December 8, 2015
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