

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

RSA No.4338 of 2013 (O&M)

Date of decision : 12.01.2015

Joginder Pal @ Joginder Singh and another

...Appellants

Versus

Bishan Dass and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R.D. Sharma, Advocate
for the appellants.

AMIT RAWAL, J. (Oral)

CM No.11710-CI of 2013

For the reasons stated in the application which is supported
by an affidavit, delay of 313 days in re-filing the appeal is condoned.

The application stands disposed of.

CM No.11711-CI of 2013

For the reasons stated in the application which is supported
by an affidavit, delay of 576 days in filing the appeal is condoned.

The application stands disposed of.

Main Case

The present Regular Second Appeal is directed against the impugned judgment and decree passed by both the Courts below, whereby suit of the appellants-plaintiffs claiming the declaration that they have acquired right of easement by way of presentation to use the passage marked as ABXW in the site plan for egress and ingress of plot shown in green colour in the site plan bearing Khewat No.1, Khatauni No.2, 3, Khasra No.55R (1 Kanal-1 Marla), 40R (0 Kanal-19 Marla) measuring 2 Kanals situated in revenue estate of Village Chacheli, Hadbast No.354, Tehsil Pathankot and for mandatory injunction directing the defendants to remove the wall/obstruction marked AB shown in red colour in the site plan as the plaintiff is alleged to have been using for the last 25 years, has been dismissed.

The Courts below have dismissed the suit of the appellant-plaintiffs on the ground that the plaintiff had not been able to prove the statutory ingredients of Section 15 of Easement Act, 1882. In the cross-examination the appellant-plaintiff admitted that he had been using the passage for egress and ingress for the last 15 years whereas statutory requirement of the law is 20 years.

The Lower Appellate Court also did not agree with the appellants-plaintiffs and found that the Trial Court has rendered the findings of the fact in law as the statutory requirement of the law had not been complied with by the appellants-plaintiffs.

I do not find any illegality and perversity in the findings recorded by the Courts below which is based on the facts and the law. No substantial question arises for adjudication of the present appeal.

Accordingly, the present appeal is dismissed.

12.01.2015

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**(AMIT RAWAL)
JUDGE**