

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112/A

***C.M. No. 3084-C of 2014 &
RSA No. 1035 of 2015 (O&M)***

Date of decision: 17.12.2015

Ramanand

....APPELLANT

VERSUS

Suraj Bhan

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ramender Chauhan, Advocate,
for the applicant/appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 3084-C of 2015

Prayer in this application is for condonation of delay of 1 day in filing the appeal.

For the reasons mentioned in the application, which is duly supported by the affidavit of the appellant, the same is allowed. Delay of 1 day in filing the appeal stands condoned.

RSA No. 1035 of 2015

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Bhiwani dated 19.10.2011, whereby the suit filed by the appellant-plaintiff seeking prohibitory injunction against the respondent-defendant for restraining him from interfering in the peaceful possession and cultivation of the appellant-plaintiff, as owner of 1/4th share over the suit land which comes to 13 Kanals 2 Marlas, as detailed

in the head note, stands dismissed, appeal against which preferred by the appellant-plaintiff also stands dismissed by the Additional District Judge, Bhiwani on 18.09.2014.

2. It is the contention of the learned counsel for the appellant that the findings recorded by the Courts below are contrary to the pleadings and evidence brought on record. He contends that no sale deed dated 22.09.1993 was executed. He contends that the said sale deed is an outcome of fraud being played upon the appellant-plaintiff and the said document is a forged and fabricated one which could not have been relied upon by the Courts below merely because there was a writing in the sale deed that the possession has been handed over to the respondent. He, thus, contends that the judgments and decree passed by the Courts below cannot sustain and deserve to be set aside.

3. Having considered the impugned judgments passed by the Courts below with the able assistance of the learned counsel for the appellant, I do not find any merit in the contentions, as have been raised by the counsel for the appellant.

4. It is not in dispute that the sale deed is a registered one. The factum of the sale deed having been executed stands admitted by the appellant-plaintiff in his cross-examination at the first instance but thereafter, he had tried to come out of the same but the same is unacceptable keeping in view the fact that the sale deed is a registered document and no evidence has been brought on record which would prove the assertion of the appellant-plaintiff that the said document was a forged and fabricated one and outcome of fraud having been played upon the appellant-plaintiff, the finding that the sale deed is a genuine document cannot be faulted with.

The admission on the part of the appellant-plaintiff that the respondent has been put in possession of the land, which was the subject matter of the suit as per the writing in the said sale deed and further that the injunction, as has been prayed by him, proves the factum that the possession was with the respondent-defendant. In view of the above, the pleadings and evidence having been properly appreciated by the Courts below while passing the impugned judgments, the same do not call for any interference by this Court.

5. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

6. In view of the above, finding no merit in the present appeal, the same stands dismissed.

December 17, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE