

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5013 of 2013 (O&M)
Date of decision : October 12, 2015

Roop Chand

..... Appellant

Versus

The Dadri Scheduled Caste Land owing Society and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jatin Hans, 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. 13504-C of 2013

This is an application under Section 5 of Limitation Act seeking condonation of delay in filing the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 82 days in filing the appeal is condoned.

The application stands disposed of.

RSA No. 5013 of 2013 (O&M)

The appellant-plaintiff No.2 has impugned the

judgment and decree of the Additional District Judge, Bhiwani dated 16.4.2013 whereby, the suit has been partly decreed by reversing the judgment and decree of the trial court as suit for declaration claiming 1/3rd share in respect of the properties of one Ramji Lal had been dismissed.

Learned counsel for the appellant-plaintiff No.2 submits that though the trial court has committed illegality and perversity in declining the relief, for the reason that Ramji Lal had appointed a nominee namely Mangtu Ram, since the property had been sold, the successor in interest of Ramji Lal would be entitled to their respective shares as claim before the trial court was to the extent of 1/3rd share. He further submits that name of Mangtu Ram, even after disposal of the property still remains in the list of members of the society and therefore, asserts that the appellant-plaintiff No.2 is entitled to declaration as sought for.

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

The lower appellate court did not grant the relief as sought by the respective plaintiffs viz-a-viz 1/3rd share qua the estate of Ramji Lal being son of Banwari Lal as the plaintiff failed to give particulars of other siblings i.e. legal representatives of Banwari Lal son of Ramji Lal. The lower appellate court instead of granting relief qua 1/3rd share granted 1/12th share as the appellant-plaintiff did not mention share in total amount of ₹34,000/- viz-a-viz share. The lower appellate court also granted interest @ 6% per annum on account of share of the appellant-plaintiff No.2 since the property has no longer

remained in the hands of Mangtu Ram, the successor-in-interest of Ramji Lal would be entitled to their respective shares. Therefore, the declaration for incorporating the name of the plaintiff's nominee in the rolls of list of members of the society would be meaningless.

I do not intend to differ with the finding rendered by the appellate court 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

October 12, 2015
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