

RSA No. 1676 of 2015 (O&M)

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

RSA No. 1676 of 2015 (O&M)

Date of Decision: November 28, 2015

Ranbir Singh

...Appellant

Versus

Ram Kumar & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vishal Gupta, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.4626-C of 2015

Prayer in this application is for condoning the delay of 55 days in re-filing the appeal.

The reason assigned for the delay in re-filing the appeal is that after the Registry raised certain objections, the case file was received back which got mixed with the brief of some other cases and the same was, with great difficulty, traced out and re-filed which resulted in the delay of 55 days. The application is supported by an affidavit of the Clerk of the counsel.

In view of the reason assigned in the application, the same is allowed. Delay of 55 days in re-filing the appeal stands condoned.

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CM No.4627-C of 2015

Exemption is granted from filing the certified copies of the judgment and decree dated 21.05.2013 passed by the Additional Civil Judge (Senior Division), Ganaur and from filing the typed copy of judgment and decree dated 28.08.2014 passed by the District Judge, Sonipat, subject to all just exceptions.

Application stands allowed.

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A suit for permanent injunction was instituted by the appellant-plaintiff against respondents-defendants claiming himself as owner in possession of House bearing Municipal No.162/3, measuring 110 square yards, dimensions thereof were mentioned in the site plan attached with the plaint. The parties are Hindus and constituted a Joint Hindu Family. A family settlement had taken place between them on 02.04.2002 and as per the said family settlement, the house mentioned in the plaint came to the share of the appellant-plaintiff and therefore, he being now in possession of the said house, is entitled to the injunction as has been prayed for. The said suit was dismissed by the Additional Civil Judge (Senior Division), Ganaur, on 21.05.2013, appeal against which preferred by the appellant-plaintiff stands dismissed by the Additional District Judge, Sonipat, on 28.08.2014.

It is the contention of the learned counsel for the

appellant that the Courts below have not properly appreciated the contents and the text in which the family settlement dated 02.04.2002 (Ex.P-2) was entered into between the parties. As per the said settlement, the appellant-plaintiff became the exclusive owner in possession of the said house, therefore, efforts were being made to encroach upon the said property, so the appellant-plaintiff has filed the present suit. He contends that the prayer as has been made in the suit should have been accepted and thus, the judgments and decree passed by the Courts below deserve to be set aside.

On considering the submissions made by the learned counsel for the appellant, I find myself not in agreement with the same. The family settlement which is made the basis for claiming the ownership and possession of the house in question is stated to be dated 02.04.2002 (Ex.P-2). As per the said family settlement, no specific portion has been mentioned in the same which was given as ownership and the possession handed over to the appellant-plaintiff. Further, he has not been able to establish on the basis of any evidence that he is in possession of the said house, rather, it has come on record that he has been residing separately from his father and brother, in other village for the last 12 years. He could not produce his ration card or any other document to establish his residence in village Ganaur as he was residing in village Diwana as per his own admission in the cross-examination. In view of the above,

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the findings recorded by the Courts below cannot be faulted with.

A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below are based on proper appreciation of the evidence brought on record which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

CM No.4628-C of 2015

In view of the order passed in the main appeal, the present application for stay of the operation of the impugned judgments and decree passed by the Courts below, has become infructuous.

Disposed of as such.

November 28, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**