

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

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Regular Second Appeal No.184 of 2015 (O&M)
Date of Decision: December 11, 2015

Baldev Singh (now deceased) through his LRs

...Appellants

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Abhishek Arora , Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.494-C of 2015

Prayer in this application is for condonation of delay of 8 days
in filing the appeal.

For the reasons mentioned in the application, which is duly
supported by an affidavit, the present application is allowed.

Delay of 8 days in filing the appeal stands condoned.

RSA No.184 of 2015

Challenge in this appeal is to the judgment and decree passed
by the Additional District Judge, Fatehgarh Sahib, dated 28.08.2014,
whereby the appeal preferred by the respondents-defendants challenging the
judgment and decree dated 30.08.2013 passed by the Additional Civil Judge
(Senior Division), Fatehgarh Sahib, has been partly allowed by modifying
the relief granted by the lower Court to the extent that the suit of the
appellants-plaintiff stands decreed for restraining the defendants and their
agents from interfering in his peaceful possession over the suit property
except in due course of law and the suit of the plaintiff for restraining the
defendants from raising construction of culvert would remain dismissed.

2. It is the contention of learned counsel for the appellants that the trial Court has given its clear and categoric finding with regard to the possession of the plaintiff on the land in question. He contends that the relief to restrain the defendants from raising construction of the culvert adjoining the land of the appellants-plaintiff was declined. He contends that by granting the respondents-defendants the liberty to interfere with the possession of the plaintiff in due course of law virtually amounts to permitting the respondents-defendants to interfere in the peaceful possession of the appellants-plaintiff. He, thus, contends that the judgment and decree passed by the Lower Appellate Court cannot sustain and deserves to be set aside and that of the trial Court restored.

3. I have considered the submissions made by learned counsel for the appellants and with his able assistance, have gone through the impugned judgment.

4. A perusal of the impugned judgment passed by the Additional District Judge, Fatehgarh Sahib, dated 28.08.2014, would show that the possession of the appellants over the land in question has been accepted. It is also reiterating the decree passed by the trial Court with regard to declining the relief of interference and construction of the culvert adjacent to the land of the appellants-plaintiff, however, the permission with regard to interference in the peaceful possession over the suit property of the appellants-plaintiff except in due course of law, cannot be said to be illegal, specially when injunction cannot be granted restraining the exercise of due process of law which may be duly adopted by a party to either take the possession or to acquire etc.

5. In view of the above, finding no merit in the present appeal, the

same stands dismissed.

6. In the light of the dismissal of the appeal, the application for stay i.e. CM No.495-C of 2015, stands disposed of as infructuous.

December 11, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**