

RSA No.313 of 2015 (O&M)

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

RSA No.313 of 2015 (O&M)

Date of Decision: December 14, 2015

Rashpal Singh & others

...Appellants

Versus

Sukhwinder Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Rajinder Sharma, Advocate
for the appellants.

AUGUSTINE GEORGE MASI, J. (Oral):

CM No.823-C of 2015

Prayer in this application is for making good the
deficiency of Court fee.

For the reasons mentioned in the application which is duly
supported by an affidavit of Murta Singh-appellant No.4, the same is
allowed. The deficiency in Court fee which has been made good, is
taken on record.

CM No.824-C of 2015

Prayer in this application is for condonation of delay of
152 days in re-filing the appeal.

The reason assigned in the application for condonation of
delay in re-filing the appeal is that the Court fee could not be
arranged because of which, initially there was deficiency in Court fee

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and in the arrangement of the amount for the Court fee, the delay has occurred.

For the reasons mentioned in the application which is duly support by an affidavit of counsel himself, the same is allowed. Delay of 152 days in re-filing the appeal stands condoned.

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Challenge in this appeal is to the judgment and decree passed by the learned Additional District Judge, Amritsar, dated 06.03.2014, whereby, the appeal preferred by the respondent-plaintiff No.1 has been allowed against the judgment and decree passed by the Civil Judge (Junior Division), Amritsar, dated 15.12.2010, dismissing the suit of the respondent-plaintiffs.

It is the contention of the learned counsel for the appellants that the judgment and decree passed by the trial Court was based upon proper appreciation of the pleadings and the evidence brought on record and there was no ground for the Appellate Court to have reversed the well-reasoned findings returned by the trial Court. His further assertions is that the suit preferred by the respondent-plaintiffs was time barred and therefore, the suit itself should have been dismissed on the said ground. Assertion has also been made that the sale deed dated 09.12.1991 which has been specifically set aside by the lower Appellate Court, could not be so done as it was duly executed by Surjan Singh. He, accordingly, contends that the impugned judgment and decree dated 06.03.2014

passed by the Additional District Judge, Amritsar, cannot sustain and deserves to be set aside.

I have considered the submissions made by the learned counsel for the appellants and with his assistance have gone through the impugned judgment of the learned Appellate Court as also the judgment of the trial Court but do not find any illegality in the impugned judgment.

The first contention of the learned counsel for the appellants that the suit which has been preferred by the respondent-plaintiffs is time barred, the said assertion cannot be accepted as the present suit was filed by the respondent-plaintiffs claiming their right on the basis of the title and for a suit for title, there is no limitation prescribed. The findings, thus, recorded by the learned Lower Appellate Court relying upon the judgment of this Court in **Swarna Devi and others Vs. Mahant Nath Ram Sharma, 2005 (2) Civil Court Cases, 484 (P&H)**, cannot be faulted with.

As regards the contention of the learned counsel for the appellants that the sale deed dated 09.12.1991 has been duly executed by Surjan Singh and therefore, the said sale deed could not have been set aside, suffice it to say that Surjan Singh died on 15.04.1987 and a dead man could not have executed a sale deed after his death as in the present case, the sale deed was executed on 09.12.1991. The finding, thus, recorded by the learned Appellate

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Court, on this count, is also without any blemish which would call for any interference by this Court.

In view of the above, finding no merit in the present appeal, the same stands dismissed as there is no substantial question of law involved which would call for any consideration by this Court.

CM No.825-C of 2015

In view of the order passed in the main appeal, the present application under Order 41 Rule 5 of CPC for staying the operation of the judgment and decree dated 06.03.2014 passed by the Additional District Judge, Amritsar, has become infructuous.

Disposed of as such.

December 14, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**