

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

**Regular Second Appeal No.3693 of 2015 (O&M)
Date of decision: 07.08.2015**

Karam Singh and another

.....Appellants

Versus

Guri and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

Present: Mr. Manish Prabhaker, Advocate,
for the appellants.

Ritu Bahri, J.

CM No.9082-C of 2015

In view of the averments mentioned in the application, same is allowed and delay of 271 days in filing the appeal is condoned.

RSA No.3693 of 2015

Decree Holder-appellants have come up in regular second appeal against the judgment dated 21.07.2014 passed by the Additional District Judge, Amritsar dismissing their appeal against the judgment and decree dated 14.02.2013 passed by the Addl. Civil Judge (Senior Division), Amritsar, whereby application filed by Decree Holders-applicants (respondents herein) for final decree had been allowed.

In this case, a preliminary decree was passed on 20.01.2001 by the Court of Sh. Arunveer Vashisht, Addl. Civil Judge (SD), Amritsar. Appeal

against the said decree was dismissed by the Court of Sh. S.K. Garg, Additional District Judge, Amritsar on 23.07.2003 and the Decree Holders were directed to deposit a sum of Rs.5000/-. However, even after depositing the same, possession of the property in dispute had not been given to the Decree Holders, Therefore, they filed an application for grant of final decree for possession qua the disputed land.

Upon notice, the Judgment Debtor-appellants appeared and filed written statement by taking the plea that a regular second appeal filed by the them was pending before this Court and the Decree Holders have not disclosed this fact before filing the present application.

While allowing the aforesaid application, a concurrent finding of fact has been recorded by both the Courts below that the Judgment Debtors-appellants have lost the litigation up to the Hon'ble Supreme Court. The mortgage money of Rs.5000/- was deposited by the Decree Holders (respondents) on 28.05.1986. In order to prove the same, copy of challan form was placed on record as Ex.P5. Report of the Treasury Officer showing that the aforesaid amount of Rs.5000/- had been deposited in the Treasury Office vide CCD No.235 dated 28.05.12986 by Smt. Guri wife of Jagat Singh, was also placed on record.

The only objection of the Judgment Debtors-appellants is that Varinder Singh, who has filed the application, was not the legal heir of Decree Holders-Smt.Guri and Kanso. On this aspect, both the Courts have returned a finding that Varinder Singh had been impleaded as legal heir of Decree Holder-Kanso vide order dated 01.12.2008 (Ex.PX) passed by this Court in CM No.1847-C of 2008 in RSA No.4234 of 2003. After being impleaded as LR, said Varinder Singh had contested the regular second

Holder-Guri had died and thereafter, Kanso had been impleaded as her legal heir. Varinder Singh was impleaded as legal heir of Kanso after her death. Before the lower Court, Varinder Singh moved an application for being impleaded as legal heir of DH-Kanso, which was allowed on 31.07.2010. This order was never challenged by filing any revision etc. Therefore, at this stage, the Judgment Debtors-appellants cannot raise this plea.

After going through the impugned orders/judgments, this Court is of the view that the application filed by the Decree Holders-respondents for final decree had been rightly allowed by both the Courts below. No illegality, much less perversity, has been found in the impugned judgments, warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

07.08.2015
ajp

(RITU BAHRI)
JUDGE