

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3892 of 2015(O&M)

Date of decision : December 3, 2015

Mohinder Singh

..... Appellant

Versus

Punjab Agriculture University and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Prateek Pandit, 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. 9541-C of 2015

This is an application under Section 5 of the 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 323 days in filing the appeal is condoned.

The application stands disposed of.

RSA No. 3892 of 2015(O&M)

The appellant-plaintiff is in Regular Second Appeal against the judgment of the lower appellate court whereby the suit for permanent injunction seeking restraint against the respondents-defendants, its employees, agents and servants from taking forcible, illegal possession of the land measuring 6 Kanals 3 Marlas in Khewat No.1413, Khatauni No.1694, bearing khasra No. 337/6-3,

situated in the revenue estate of Kapurthala Sharks, Hadbast No. 134, Tehsil and Distt. Kapurthala, which was decreed by the trial court, has been reversed by the lower appellate court.

Learned counsel appearing on behalf of the appellant submits that the appellant-plaintiff is owner of land and as per jamabandi possession has been proved. However, the lower appellate court erroneously relied upon the demarcation report and formed an opinion that it is Agriculture University which is in possession, therefore, reversed the well reasoned judgment of the trial court. Even the demarcation report did not reveal that the respondents-defendants are in possession of the entire land for which injunction was sought, therefore, ought not to have modified the relief in terms of the demarcation report.

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

It was for the appellant-plaintiff, in such a situation to seek possession in accordance with law. In view of the ratio decidendi culled out in **Rame Gowda Vs. M. Varadappa Naidu (dead) by L.Rs and another (2004) 1 SCC 769,** it is a settled law that the person who is in long and settled possession cannot be dispossessed except in due course of law. The appellant-plaintiff is not prevented to seek possession in accordance with law. Even assuming for an argument sake as per the demarcation report, some portion of the land has not been in possession of the defendants, yet such argument is also not sustainable, for the fact, that demarcation has to be conducted by the respondents-defendants and not by the

appellant. The appellant-plaintiff has to stand on his own legs to prove whether he is in long and settled possession.

I do not intend to differ with the finding rendered by the appellate court reversing the judgment and decree of the trial 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.

The appellant-plaintiff shall be at liberty to seek possession of the suit property in accordance with law.

(AMIT RAWAL)
JUDGE

December 3, 2015
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