

**C.M. NO.3513-C OF 2014 &
R.S.A. NO.1468 OF 2014**

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

DATE OF DECISION: AUGUST 25, 2015

Hari Mittar

.....Appellant

VERSUS

Surinder Kaur and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr. Manjul Sud, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.3513 C of 2014

Prayer in this application is for condonation of delay of 5 days
in filing the present appeal.

The reason for delay has been mentioned in Para 2 of the
application, according to which the appellant, because of his ailment, could
not contact his counsel in time, due to which delay of 5 days has occurred.
The said application is supported by an affidavit of the appellant.

For the reason mentioned in the application, delay of 5 days in
filing the appeal is condoned.

R.S.A. No.1468 of 2014

Challenge in this appeal is to the judgements and decree passed

by the Courts below, vide which the suit of the appellant-plaintiff for declaration to the effect that he alongwith respondent-defendant No.9 are owners of land measuring 44 kanals 19 marlas in equal share, detail of which has been given in the head note of the plaint. Declaration has also been sought with regard to mutation No.5854 sanctioned at the back of the appellant-plaintiff regarding land measuring 48 kanals 5 marlas in favour of respondent-defendant Nos.1 to 3 and in favour of Mohinder Dass, predecessor of defendant Nos.4 to 8, being null, void, illegal and not effecting the rights and title of the appellant-plaintiff.

This suit for declaration was primarily based upon the assertion of the appellant-plaintiff that as per the registered sale deed dated 04.01.1978, which was executed by Jit Singh, father of the appellant-plaintiff and respondent No.14, the sold land was to the extent of 3 Kanals 7 marlas only out of the total land measuring 48 kanals 7 marlas. Further while referring to the sale deed, it has been mentioned that after the Khata number, Khasra Numbers were mentioned and it was specified that it is 3 kanals 7 marlas of total land and, therefore, mutation No.5854, which has been entered in the name of respondent-defendant Nos.1 to 13, who are at present holding the same, cannot be sustained. Counsel, therefore, contends that it is the interpretation of this aspect only, which has to be decided and both the Courts below unfortunately decided the same against the appellant-plaintiff. He asserts that the said interpretation cannot be sustained and he has rightly asserted that as a matter of fact the sale deed was pertaining to 3 kanals and 7 marlas of land only out of total land measuring 48 kanals 7 marlas.

This contention of counsel for the appellant cannot be accepted as the Courts below have rightly come to the conclusion that it pertains to land measuring 48 kanals 7 marlas and not qua 3 kanals 7 marlas out of the same, as has been mentioned. In fact, it actually refers to Khasra Number 85//1 (7-8) only and not qua the land.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

**August 25, 2015
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**(AUGUSTINE GEORGE MASIH)
JUDGE**