

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

RSA No.4264 of 2015 (O&M)

Date of Decision: December 15, 2015

Sri Chand (deceased) through LR's and others Appellants

vs.

Municipal Corporation Faridabad and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. S.K. Tripathi, Advocate for the appellant.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

CM-10295-C-2015

There is delay of 128 days in refiling the present appeal.

For the reasons mentioned in the application, supported by an affidavit, delay of 128 days in refiling the present appeal is condoned, subject to all just exceptions.

Application stands disposed of.

RSA-4264-2015

Impugned in the present regular second appeal is the judgment and decree dated 18.09.2014 passed by learned Addl. District Judge, Faridabad, affirming the judgment and decree dated 12.12.2011 passed by learned Addl. Civil Judge (Sr. Divn.), Faridabad, vide which the suit of the plaintiff for declaration and permanent injunction was dismissed.

In the suit, the plaintiffs had sought declaration to the effect that the ejectment order dated 31.03.1995 passed by the Collector, Ballabgarh, is illegal and that the rapat rojnamacha No.634, dated 24.11.1995 and the entries in the jamabandi for the year 2011-12 are incorrect.

The plaintiffs claimed that they are the owners in possession of the suit land. Earlier their father was the tenant at will for more than last 50 years without paying any rent. Faridabad Complex Administration filed a petition under the Haryana Public Premises Act, 1973 before the Collector, Ballabgarh. The ejectment order dated 31.03.1995 was passed, which is illegal and the entry in the Rojnamcha regarding the delivery of possession was also made on 24.11.1995. However, the plaintiffs were never dispossessed. They are still in possession of the suit land. They had acquired the ownership over the disputed land by way of occupancy tenancy rights under the provision of Punjab Tenancy Act, 1887 and Punjab Occupancy Tenancy Act.

The lower court held that the ejectment order was passed in the year 1995 and the present suit was filed in the year 2007. It is further held that Sri Chand (now deceased), one of the plaintiffs had even signed the rapat rojnamcha No.634, dated 24.11.995, vide which the possession was delivered to the Municipal Corporation, Faridabad. Therefore, the suit was filed after the delay of more than 12 years from the passing of the said order and is not maintainable.

It further comes out that no appeal against the said order was filed. The plaintiffs had not challenged the said order by way of appeal. Merely some entries in the jamabandi regarding their possession, do not prove that they had acquired ownership over the suit land and that they were occupancy tenants. They were in illegal possession and were ejected in due course of law.

The findings of facts have been recorded by both the courts below. No substantial question of law is involved in the present appeal.

Hence, the present regular second appeal stands dismissed.

December 15, 2015
sarita

(KULDIP SINGH)
JUDGE