

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

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Regular Second Appeal No.2544 of 2014 (O&M)
Date of Decision: September 21, 2015

Jagdish and others

...Appellants

Versus

Tara Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Kumar, Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.5996-C of 2014

Prayer in this application is for condonation of delay of 19 days
in re-filing the appeal.

For the reasons mentioned in the application which is duly
supported by the affidavit of the applicant-appellant No.1, the same is
allowed.

Delay of 19 days in re-filing the appeal stands condoned.

RSA No.2544 of 2014

Challenge in this appeal is to the judgments and decree passed
by the Courts below by which the suit of the appellants-plaintiffs for
declaration to the effect that they are co-owners to the extent of 2/3rd share
of the suit land as mentioned in the head note of the plaint and for
injunction on the basis of the declaration regarding release deed dated
08.12.2009 in favour of respondent-defendant No.3 by respondents-
defendants 1 and 2 is illegal, null and void. Injunction for possession of
their share in the suit property was also sought, which has been dismissed

and the appeal preferred has also not been accepted.

2. It is the contention of learned counsel for the appellants-plaintiffs that the release deed could not have been executed by respondents-defendants 1 and 2 as the land was an ancestral land and, therefore, their right on birth could not have been denied which they had attained. He contends that once the documents itself indicated that it is an ancestral land, mere denial on the part of the respondents-defendants cannot show that the land was otherwise. He, thus contends that the findings recorded by the Courts below on the basis of which the declaration and injunction have been denied, cannot sustain.

3. This contention of learned counsel for the appellants-plaintiffs cannot be accepted in the light of the fact that there is no evidence led by the appellants-plaintiff which would indicate that the said land was an ancestral land. In the reply which has been filed, the factum of it being an ancestral land, is not admitted. Further respondents-defendants 1 and 2 had filed a joint written statement, where they had admitted that the release deed has been duly executed by them. Nothing has been produced on record which would indicate that the release deed has not been properly executed and it was vitiated with fraud or was a result of forgery.

4. 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.

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

September 21, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**