

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

RSA No.5548 of 2015 (O&M)

Date of decision : 19.10.2015

Union of India and ors.

...Appellants

Versus

Raghubir Singh and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Ashok Kumar Arora, Advocate for appellants.

AMIT RAWAL, J. (Oral)

CM No.13374-C of 2015

This is an application u/s 151 CPC for condonation of delay of 40 days in refiling the appeal.

For the reasons stated in the application, which is supported by an affidavit, delay of 40 days in re-filing the appeal is condoned.

The application stands disposed of.

CM No.13375-C of 2015

For the reasons stated in the application which is duly supported by an affidavit, application is allowed, subject to all just exceptions.

Main case

Challenge in the present appeal is to the impugned judgment and decree of the Lower Appellate Court, whereby suit for possession of land measuring 4 kanals 4 marlas as described in the suit property has been decreed by setting aside the judgment and decree of the trial Court.

Mr. Ashok Kumar Arora, learned counsel appearing on behalf of appellants submits, that respondents-plaintiffs failed to prove the alleged date of encroachment on behalf of appellants-defendants. The plaintiffs have to stand on their own legs but failed to discharge the onus as per the provision of Section 101 of the Indian Evidence Act. All the documentary evidence noticed by the Courts below have been tendered thus not proved in accordance with law. Lower Appellate Court has heavily relied upon report of Halqa Kanungo, which is not permissible in law and, therefore, there is illegality and perversity in the impugned findings.

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

It is settled law that where parties are at variance, the evidence has to be led on such points. The ownership of the land has been admitted by the defendants. Halqa Kanungo inspected the premises and demarcated the premises in the presence of officials of the appellants-defendants. No objection has been filed in this regard. As per report, it has been found that Union of India is in illegal possession of the suit property. Union of India cannot be permitted to remain in possession of an inch of land not owned by them. DW1 Rohitesh Yadav admitted factum of ownership, much less,

demarcation report, therefore, there was no occasion left with the lower Appellate Court for decreeing the suit by setting aside the judgment and decree of the trial Court.

I do not find any illegality and perversity in the findings rendered by the lower Appellate Court, much less, no substantial questions of law arises for determination by this Court.

Resultantly, the present appeal is dismissed.

19.10.2015

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**(AMIT RAWAL)
JUDGE**