

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5650 of 2015
Date of decision : October 31, 2015

Harbans Kaur

..... Appellant

Versus

Zora Singh (deceased) through L.Rs

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. K. S. Boparai, 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.13762-C of 2015

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 135 days in refiling the appeal is condoned.

The application stands disposed of.

CM No.13764-C of 2015

This is an application under Section 5 of 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 442 days in filing the appeal is condoned.

The application stands disposed of.

CM No.13761-C of 2015

This is an application under Section 151 CPC seeking exemption and to place on record the true copies of Annexures A-1 to A-3.

The application is allowed.

CM No.13765-C of 2015

This is an application under Section 149 CPC for making good the deficiency in court fee.

The application is allowed.

Delay in making the deficiency in court fee good is condoned.

RSA No. 5650 of 2015(O&M)

The appellant-plaintiff is in Regular Second Appeal against the concurrent finding of fact whereby the suit for specific performance of the agreement to sell dated 17.7.1992 in respect of land measuring 12 Kanals 7 Marlas alleged to have been sold for ₹90,000/- against the payment of earnest money of ₹89,000/- has been dismissed.

Admittedly, the appellant-plaintiff is daughter-in-law of the vendor. The target date for execution and registration of the sale deed was 30.6.1993 whereas only a sum of ₹1,000/- was to be paid. Zora Singh tried to enter into an agreement to sell on 16.7.1992 suffered a statement in civil suit No.146 dated 30.3.1990 whereby the property agreed to be sold has been transferred in favour of defendant Nos. 2 and 3.

It is a matter of record that the aforementioned judgment and decree was challenged by husband of the plaintiff by filing a civil suit No. 206 dated 17.12.1998. The same was dismissed vide Ex.D-3. The appeal filed against the same was also dismissed vide Ex. D-Z.

Learned counsel for the appellant during the course of arguments submits that even the Regular Second Appeal filed in this Court has also met with the same fate.

The courts below have non-suited the appellant-plaintiff on the ground that Zora Singh was not owner of the land on the date when he entered into an agreement. I am in agreement with the contentions of the learned counsel for the appellant as agreement does not confer title, but the fact remains that husband of plaintiff could not succeed in setting aside judgment and decree in Civil Suit No. 146 of 30.3.1990. In essence, he has lost upto this Court. Therefore, the said judgment and decree dated 20.7.1992 attained finality. Once Zora Singh was not owner of the property, he did not have any title or interest in the property to part the same to the appellant-plaintiff in pursuance to agreement to sell dated 17.7.1992 as it could not be performed.

There is another aspect of the matter. By keeping balance amount of ₹1,000/- the party would not fix a long date for registration of the agreement after almost one year.

I do not intend to differ with the finding rendered by both the courts below 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.

(AMIT RAWAL)
JUDGE

October 31 , 2015
archana