

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.928 of 2015 (O&M)
Date of Decision.10.08.2015

Gian Chand since deceased through LRsAppellant

Versus

Roshan Lal since deceased through LRsRespondent

Present: None for appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

C.M. No.2737-C of 2015

For the reasons stated in the application, delay of 119 days
in filing the second appeal is condoned.

Application is allowed.

RSA No.928 of 2015

1. The counsel for the appellants had not been present on 16.03.2015 and the case was adjourned for 18.03.2015. On that day, at the request of the counsel for the appellants, records of the courts below were sent for 26.05.2015 and subsequently, at the next date of hearing on 26.05.2015, the case was posted for today. Today also, there is no representation on behalf of the appellants.
2. The second appeals which are brought for hearing are required to be considered for existence of any substantial question of law which is essentially a duty of Court to consider. There is no

representation for the appellants. I have examined the records and I would find that the suit is for recovery of possession of property contending that the defendants had trespassed in the property. The plaintiffs sought to establish the defendants' manner of possession to be unlawful. The contention of the defendants is that whole construction could not have come up without any form of objection from the plaintiffs and it was itself a pointer to the fact that the plaintiffs had never objected to the construction made by the defendants. The plaintiffs wanted to explain that they had gone to PGI for treatment of 3rd plaintiff's son and the defendants encroached upon the property in dispute and made construction. Even such an explanation could hardly be a justification to let the defendant put up a whole construction which ought to have taken several months for completion. The Court has found that there is no proof by appropriate demarcation of how the defendants have made any construction within the plaintiffs' property. The said finding of the trial Court dismissing the plaintiff's suit was affirmed by the Appellate Court and the appeal was also dismissed.

3. I find that no substantial question of law has arisen in the second appeal for consideration. The second appeal is dismissed. There is also application for condonation of delay. The application is also dismissed as it does not require any separate disposal in view of the dismissal of the second appeal itself.

(K. KANNAN)
JUDGE

August 10, 2015
Pankaj*