

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**C.M. Nos. 10017 & 10021-C of 2014 &
RSA No. 4321 of 2014**

Date of decision: 03.09.2015

Balbir Singh

...APPELLANT

VS.

Kewal Singh and another

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gorakh Nath, Advocate,
for the applicant/appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 10017-C of 2014

Prayer in this application is for condonation of delay of 260 days in re-filing the appeal.

The reason assigned for the delay is that upon the Registry pointing out certain objections on 17.09.2013, the case file was taken back by the clerk of the counsel and by mistake, it got mixed up with the decided cases in the office of the counsel. When the appellant enquired about the status of this appeal, the same was traced with great difficulty and after removal of the objections, the same has been re-filed, which has resulted in delay of 260 days in re-filing the appeal. The application is supported by the affidavit of the clerk of the counsel.

For the reasons mentioned in the application, the same is allowed. Delay of 260 days in re-filing the appeal is condoned.

RSA No. 4321 of 2014

Challenge in this appeal is to the judgments and decree passed

by the Courts below, vide which the suit for permanent injunction filed by the respondents-plaintiffs restraining the appellant-defendant from encroaching any part of the street in question and further from creating any hurdle in the peaceful use of the same and from closing the said street by putting the gate thereon on the western side of the street, stands decreed by the Additional Civil Judge (Senior Division) Dhuri on 04.05.2012, against which the appeal preferred stands dismissed by the Additional District Judge, Sangrur on 14.05.2013.

It is the contention of the counsel for the appellant that the findings recorded by the Courts below cannot be sustained as the evidence, which has been led by the parties, has not been properly appreciated.

Having considered the submissions made by the counsel for the appellant and having gone through the judgments passed by the Courts below with his assistance, I am of the considered view that the findings, as recorded by the Courts below, are in accordance with and after proper appreciation thereof. The evidence, which has been brought on record, has neither been misread nor has there been any lapse in this regard. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be just and reasonable, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

C.M. No. 10021-C of 2014

In view of the dismissal of the main appeal, no separate orders

are required to be passed in this application, therefore, the same stands dismissed.

September 03, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE