

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 1596 of 2016 (O&M)
Date of decision : April 27, 2016

State of Punjab and others

..... Appellants

Versus

Smt. Banti and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Piyush Bansal, DAG., Punjab
for the appellants.

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. 4413-C of 2016

This is an application under Section 5 of the 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 113 days in filing the appeal is condoned.

The application stands disposed of.

RSA No. 1596 of 2016 (O&M)

The appellants-defendants are in Regular Second Appeal against decretal of the suit by the trial court and dismissal of the appeal by the lower appellate court whereby the suit for possession in respect of suit property/land has been decreed.

Learned counsel appearing on behalf of the

appellants submits that appellants had become owner of the land in dispute by way of adverse possession as the possession is more than 30 years and as per provisions of Article 65 of the Limitation Act, 1963 the law of limitation is descriptive viz-a-viz setting up claim of adverse possession, long and un-interrupted possession has to be there.

He further submits that umpteen number of documentary evidence has been placed on record to prove the aforementioned possession. Though, the defendants had taken inconsistent plea on account of ownership in view of the Punjab Occupancy Tenants(Vesting of Proprietary Rights) Act, 1952, therefore the court has declined the aforementioned plea. The plea was only inconsistent but mutual which is permissible in law. On the contrary, respondents-plaintiffs have not been able to prove ownership, much less creation of license and revocation thereof, thus urges this Court to formulate substantial questions of law as drawn in the Memo of Appeal.

I have heard learned counsel for the appellants, appraised the paper book and of the view that setting up a plea of adverse possession tantamounts to admission of title of adverse party-plaintiffs. On the contrary, the respondents-plaintiffs have placed on record the revenue record to show ownership. The license was revoked by sending a notice, therefore the suit was filed within a reasonable period. No evidence has been placed on record to show that they had been in long tenancy and payment of rent, much less ingredients of Section 5 of the Punjab Occupancy Tenants(Vesting

of Proprietary Rights) Act, 1952 has not been proved. In the absence of discharging the onus, rightly so, the suit for possession was decreed.

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. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

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

April 27, 2016
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