

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

RSA-2620 of 2016 (O&M)

Date of decision: 25.05.2016

Darshani

...Appellant

Versus

Hardeep Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Pawan Sharma, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

CM-7008-C-2016

This is an application for condonation of delay of 240 days in refiling the appeal. It is averred that the appeal was filed within limitation but the same was returned with objections on 04.08.2015. Thereafter, delay was caused as the clerk of the counsel misplaced the paper book of instant case.

Keeping in view the averments made in the application and the accompanying affidavit, and the fact that the objections were minor in nature, there appears to be sufficient

grounds to condone the delay of 240 days in refiling the appeal. Accordingly, the delay of 240 days in refiling the present appeal is hereby condoned subject to all just exceptions.

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The plaintiff/appellant filed a suit for declaration and permanent injunction. The trial Court vide judgment and decree dated 16.12.2013, partly decreed the suit, holding that the plaintiff-Ms. Darshni was owner in joint possession to the extent of 17/1667 share in the suit property; that the sale deed dated 04.07.2005, had no affect on the share of the plaintiff, Darshni and that the sale deed dated 04.07.2005 was not executed by the plaintiff Darshni in favour of defendant No.1, Hardeep Singh.

2. Aggrieved against the findings of trial Court, the plaintiff/appellant filed an appeal which was dismissed by the learned first Appellate Court, vide judgment and decree dated 22.04.2015.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal at the behest of the appellant.

4. The only argument raised by learned counsel is that the trial Court fell into a grave error while deciding the issue

Nos. 1 to 3 in favour of the appellant, despite the fact that it was duly proved on record that sale deed Ex.P1 was result of fraud and impersonation, executed by respondent No.3, Banto claiming herself to be Darshani (appellant) in connivance with the other respondents.

5. Heard, the learned counsel for the appellant and perused the record.

6. The case of the plaintiff/appellant is that she is owner in joint possession of land to the extent of 17/1667 share and respondent Nos. 1 and 6 in connivance with respondent Nos. 2 to 5 got the impugned sale deed dated 04.07.2005 executed in order to deprive the plaintiff/appellant of her share in the suit property. Though, the sale deed was executed in the name of the appellant, Darshni but the same bear the photograph and thumb impression of respondent No.3-Banto. Respondent No.1-Hardeep Singh has duly admitted the claim of appellant to the extent that earlier sale deed No.854 dated 04.07.2005 (Ex.P1) was wrongly executed in good faith by mentioning the name of seller as Darshani instead of Banto and this mistake was got corrected by executing supplementary new registered sale deed No.2526 dated 23.03.2006 (Ex.P2). Appellant and respondent No.3, Banto were

having same share in the suit property. The new sale deed was registered in the office of Sub Registrar and correction with regard to the name of seller was made. Mutation No.736 has been sanctioned on the basis of sale deed dated 23.03.2006, whereby the appellant has been shown to be the owner in the revenue record. The subsequent sale deed was executed after a period of about more than eight months and during the interregnum period, the respondents never got sanctioned the mutation, therefore, the dishonest intention of the respondents is not proved. It appears to be a mistake on the part of the Deed Writer. No loss has been caused to the ownership of plaintiff/appellant. Both the Courts below have already partly decreed the suit in favour of the appellant. In the face of the evidence and material on record, this Court concurs with the observations of both the Courts below. There is no illegality or perversity in the judgments and decrees passed by the Courts below. No substantial question of law arises for consideration. Hence, no interference is called for.

Dismissed in limine.

25.05.2016

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(JITENDRA CHAUHAN)
JUDGE