

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

108

Regular Second Appeal No.163 of 2015 (O&M)

Date of Decision: February 19, 2016

Anil Kumar and another

...Appellants

Versus

Anil Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. H.N. Sahu, Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.439-C of 2015

Prayer in this application is for condonation of delay of 151 days in re-filing the appeal.

The reason assigned for the delay is that on filing of the appeal, the Registry had raised certain objections upon which the Clerk of the counsel collected the case file but did not put up the case before the counsel for removal of the objections nor was it brought to the notice of the counsel. As and when the same came to the notice of the counsel, he had complied with the said objections and the appeal has been re-filed which has resulted in the delay of 151 days in re-filing the appeal. The application is supported by the affidavit of the counsel.

For the reasons mentioned in the application which is duly supported by the affidavit of the counsel, the present application is allowed.

Delay of 151 days in re-filing the appeal stands condoned.

RSA No.163 of 2015

Challenge in this appeal is to the judgment and decree dated 30.04.2010 passed by the Civil Judge (Junior Division), Hansi, whereby the

suit filed by the appellants-plaintiffs for declaration with consequential relief of injunction primarily claiming passage to his land as a result of partition, has been dismissed on the ground that the Civil Court does not have jurisdiction to entertain the suit as it is barred under Section 158 of the Punjab Land Revenue Act, 1887, appeal against which preferred by the appellants-plaintiffs has also been dismissed by the Additional District Judge, Hisar, on 16.01.2014 upholding the same.

2. Counsel for the appellants, after arguing the case at some length, prays for withdrawal of the appeal with liberty to avail of the remedy in accordance with law for the claim, as has been made in the suit in the light of the findings recorded by the Courts below with regard to bar of jurisdiction of Civil Court.

3. Disposed of as withdrawn with liberty aforesaid.

4. In the light of the disposal of the appeal, the application for stay i.e. CM No.440-C of 2015, stands disposed of as infructuous.

February 19, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE