

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 1847 of 2015(O&M)
Date of decision : February 3, 2016

Kanwar Sain and others

..... Appellants

Versus

Rajender Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. V. P. Singh, Advocate
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. 4955-C of 2015

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 14 days in refiling the appeal is condoned.

The application stands disposed of.

CM No. 4956-C of 2015

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 2 days in filing the appeal is

condoned.

The application stands disposed of.

RSA No. 1847 of 2015(O&M)

The appellants-plaintiffs are aggrieved of concurrent finding of fact and law whereby the suit filed at the instance of the appellant-plaintiff seeking declaration has been dismissed. The sale deed bearing No. 4872 dated 5.2.2003 has been held to be barred by law of limitation as the suit was filed on 30.4.2007. The explanation given by learned counsel for the appellant that the suit could not be filed within the prescribed period of limitation owing to the regime of particular government which had been playing havoc in the State of Haryana and getting the sale deed executed by playing force. The ingredients of Order 6 Rule 4 CPC ex facie have been proved and impediment of limitation has resulted into dismissal of the suit. The aforementioned fact has not been noticed by the courts below.

The limitation of filing the suit as per Article 58 of the Limitation Act, 1963 challenging the sale deed is three years. As noticed above, the suit has been filed beyond three years. The provisions of Section 5 of the Limitation Act, 1963 does not apply to the original suit. Rightly so, the suit has been dismissed.

There is another aspect of the matter. Even proper court fee has not been affixed.

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. I do not find any 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

February 3, 2016
archana