

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3035 of 2015(O&M)
Date of decision : February 18, 2016

Balwant Kaur

..... Appellant

Versus

Assan Jogian and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jagdish Manchanda, Advocate
for the appellant.

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. 7269-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 107 days in refiling the appeal is condoned.

The application stands disposed of.
CM No. 7270-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 13 days in filing the appeal is condoned.

The application stands disposed of.

RSA No. 3035 of 2015(O&M)

The appellant-defendant No.3 is aggrieved of the order whereby respondents-plaintiffs have been granted declaration to the effect that plaintiff No.1 has been declared owner of the land measuring 26 Kanals 2 Marlas comprised in Khewat No. 208/202, Khatoni No.569, Rect.No.83, Khasra No. 18/2 (2-18), 19 (0-2), 22 (2-12) 23 (8-0) Rect. No.85, Khasra No. 2 (4-10) and 3 (8-0) out of the suit land and plaintiff No.2 has been appointed Mahant of plaintiff No.1, and entitled to manage the land mentioned above and Collector Kurukshetra has been directed to hand over the vacant and peaceful possession of land with a direction that plaintiff No.2 shall not alienate, transfer or lease out the aforementioned land in any manner without prior permission of the court.

Mr. Manchanda, learned counsel appearing on behalf of the appellant submits that during the period when the Collector, Kurukshetra was directed to manage and control the property, created a lease in her favour, therefore, a valuable right has accrued and in the absence of relief of possession, the suit has been decreed, thus judgment and decree is not sustainable in the eyes of law.

He further submits that the appellant-defendant cannot be evicted in view of provisions of Section 106-A of Transfer of Property Act, 1882.

I have heard learned counsel for the appellant and appraised the paper book and am of the view that the Collector was

not authorized to lease out the property as he was appointed as a care taker till the appointment of a new Mahant. Since plaintiff No.2 had been appointed as Mahant of plaintiff No.1, therefore the property has to be given back to plaintiff No.1. It is in these circumstances, the aforementioned suit has been filed. Rightly so, the Collector has been directed to hand over the vacant and peaceful possession of the land.

With the aforementioned observations, 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

February 18 , 2016
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