

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

109

Regular Second Appeal No.4014 of 2015 (O&M)

Date of Decision: February 08, 2016

Khilla Ram

...Appellant

Versus

Dalip Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. R.S. Mamli, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM No.9788-C of 2015

Prayer in this application is for condonation of delay of 55 days
in filing the appeal.

The reason as stated in the application is that the
applicant-appellant being a poor person with limited sources, when came to
know about the decision in the appeal, approached the counsel after his
health improved as he was unwell, which has resulted in delay of 55 days in
filing the appeal. The application is supported by the affidavit of the
applicant-appellant.

For the reasons mentioned in the application, the present
application is allowed.

Delay of 55 days in filing the appeal stands condoned.

RSA No.4014 of 2015

Challenge in this appeal is to the judgment and decree dated
11.04.2013 passed by the Civil Judge (Junior Division), Kurukshetra,
whereby the suit for cancellation of mutation No.2947 sanctioned on
03.09.2008 and consequential relief of permanent injunction restraining the

respondents-defendants from alienating the suit land in any manner or from taking forcible possession of the suit land on the basis of the evidence, stands dismissed, appeal against which preferred by the appellant-plaintiff has also been dismissed by the District Judge, Kurukshetra, on 31.01.2015.

2. It is the contention of learned counsel for the appellant that an oral settlement has been entered into between the brothers. On the basis of the said settlement, the appellant has given an amount of ₹50,000/- to the respondents-defendants which factum is admitted by one of the brothers namely Mihan Singh. He contends that in the light of this admission of one of the respondents, who has acted thereon, the dismissal of the suit by the Courts below is not sustainable. He contends that the judgments and decree, therefore, deserve to be set aside.

3. I have considered the submissions made by learned counsel for the appellant and have gone through the impugned judgments but find myself not in a position to agree with his contentions.

4. It is not in dispute that the mutation which is under challenge is on the basis of a decree dated 23.03.1996 passed in Civil Suit No.35 of 1996. The said decree has not been challenged in the present suit nor has the relief of declaration prayed for. The mutation, cancellation of which is being sought with a consequential relief of permanent injunction, therefore, has rightly been held by the Courts below to be not maintainable before the Civil Court. A perusal of the pleadings would show that the appellant-plaintiff primarily requires the correction of the mutation for which the remedy available to him is before the revenue authorities. The said recourse having not been followed by the appellant-plaintiff, the Courts below have rightly held the suit to be not maintainable. The Courts are also

correct in asserting that mutation does not confer any title and it is merely for the purpose of putting straight the revenue record that such entries are brought about. The right, if any, as has been conferred upon is based upon the judgment and decree dated 23.03.1996 passed in Civil Suit No.35 of 1996 which is not a subject matter of challenge in the present suit. The findings, thus, recorded by the Courts below, cannot be said to be illegal or on non-appreciation of the pleadings and the evidence brought on record which would call for any interference.

5. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

6. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.9787-C of 2015, stands disposed of as infructuous.

February 08, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE