

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

**RSA No.5435 of 2016(O&M)
Date of Decision:15.11.2016**

Nirmal Singh

.....Appellant

Versus

Pritam Kaur and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Deepak Arora, Advocate
for the appellant.

RAJ MOHAN SINGH, J.(Oral)

CM No.14139-C of 2016

For the reasons mentioned in the application, delay of
126 in re-filing the appeal is condoned.

Application stands disposed of.

RSA No.5435 of 2016

[1]. Defendant is in Regular Second appeal against the
concurrent judgments and decrees passed by the Courts below.

[2]. Plaintiffs filed a suit for possession on the ground that
they had inherited the property in question from their father
namely Piara Singh who inducted the defendants as a lessee

for two years.

[3]. Oral agreement to sell was alleged by the defendant. Date of execution of that agreement to sell was conspicuously missing. No witness to the execution of the agreement to sell was produced by the defendant, except the bald statement made by defendants No.1 and 2. Even passing of consideration was not proved.

[4]. The agreement to sell was claimed to be executed in the year 2003 with a plea that Piara Singh assured to get the sale deed executed within short span. For good five years, no such sale deed came to be executed, nor any effort was made by defendant after the death of Piara Singh which took place on 01.10.2008.

[5]. Defendant-appellant asserted that the claim regarding possession by virtue of correction proceedings done by revenue authorities while correction in khasra girdawari was ordered during pendency of the suit.

[6]. Firstly, order of correction can be taken care of, as the same came to be in existence during pendency of the suit. Secondly, even if the order of correction of khasra girdawari made by the revenue officers, the same cannot help the cause of the defendant unless the pleading of the defendant in the written statement i.e. title based on agreement to sell is proved.

No such dispossessory right on account of title was complete.

[7]. Evidently, defence led by the defendant was beyond the pleadings of the defendant. Even otherwise, no revenue officer was examined to prove the factum of khasra girdawari so corrected by the authority.

[8]. No law point worth consideration is involved in the present appeal. Consequently, the present appeal stands dismissed.

15.11.2016

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No