

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5372 of 2015(O&M)
Date of decision : January 29, 2016

Jeet Singh (deceased) through L.Rs

..... Appellants

Versus

Jaswinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H. S. Dhindsa, 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. 12789-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 90 days in refiling the appeal is condoned.

The application stands disposed of.

RSA No. 5372 of 2015(O&M)

The appellants are aggrieved of the finding rendered in the suit claiming possession by way of mandatory injunction which has been dismissed by the trial court and appeal filed against the same also met with the same fate.

Learned counsel for the appellants submits that

status of the respondent-defendant was of the licensee, therefore, the suit aforementioned was filed.

The agreement to sell set up by the respondents was not registered and therefore, could not have been relied, much less benefit of Section 53-A of the Transfer of Property Act, 1882 cannot be taken into consideration, thus there is illegality and perversity in the impugned order, much less substantial question of law arise for determination by this Court.

I have heard learned counsel for the appellant and appraised the paper book.

The suit ex facie was not maintainable as the plaintiff has not, by his act and conduct or in writing cancelled the agreement as the same was executed by Jeet Singh. After cancellation, the amount of earnest money so paid was to be forfeited and in that eventuality the respondent could not have taken benefit of Section 53-A of the Transfer of Property Act, 1882. Since the agreement to sell is still in vogue, rightly so, the defendants can protect their possession as per the aforementioned provisions.

The aforementioned observations accordingly are not pressed into, for status to the respondent of a tenant or otherwise., is left open.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

January 29, 2016
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