

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5387 of 2015(O&M)
Date of decision : February 1, 2016

Jai Bhagwan

..... Appellant

Versus

Mange Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Abhinav Sood , Advocate for
Mr. Vikram Singh, 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. 12830-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 45 days in filing the appeal is condoned.

The application stands disposed of.

RSA No. 5387 of 2015(O&M)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the suit for declaration and consequential relief of permanent injunction challenging the judgment and decree dated 10.9.2003 passed in a civil suit bearing No. 443 of 2000 sought to be set aside with consequential relief of permanent

injunction restraining the respondents not to dis-posses, alienate and transfer the property in dispute has been dismissed.

Learned counsel for the appellant submits that the appellant-plaintiff who is in possession of a house measuring 138.34 sq.yards since the time of his forefathers. The ration card and electric connection and voter card have been obtained at the aforementioned address.

In the month of December, 2009 defendant Nos. 1 to 5 along with some vagabond elements came at the suit property and tried to take forcible possession on the basis of judgment and decree dated 10.9.2003. It is in these circumstances, the suit was filed. Defendant Nos. 1 to 5 filed the aforementioned suit against defendant No.6 namely Satbir on the ground that he is in illegal possession of the property in the dispute and judgment and decree had attained finality, the aforementioned facts have not been noticed by the courts below that the appellant-plaintiff is in possession of the property, thus prays that there is illegality and perversity in the impugned orders.

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

In respect of a dispute between plaintiff and defendant No.6, in the previous litigation, appeal was filed seeking restraint against the defendant Nos. 1 to 4 but the same was dismissed. Satbir lost up to this Court. Now in order to circumvent the judgment and decree the aforementioned suit had been filed at the instance of the plaintiff. The plaintiff

himself has admitted in the cross examination that no document regarding the ownership of the suit property was given to him by his grandfather. Even from the warrant of possession it is clear that possession of the suit property was given to the defendants on 5.12.2010. Thus, the appellant has not been able to prove his possession.

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 1 , 2016
archana