

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2709 of 2014(O&M)
Date of decision : March 10, 2016

Anurudh Kumar

..... Appellant

Versus

M/s DLF Universal Limited and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Aman Priye Jain, 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.6362-C of 2014

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 02 days in filing the appeal is condoned.

The application stands disposed of.

RSA No. 2709 of 2014(O&M)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby in a suit for permanent injunction challenged the return of earnest money of ₹6,670/- in the year 2002, has been dismissed.

Learned counsel appearing on behalf of the

appellant submits that both the courts below have committed illegality and perversity in declining the suit as the parentage and name of the appellant was specifically explained in the suit, however, the courts below found that the appellant-plaintiff was never an applicant for allotment and had not submitted an application for allotment and urges this court to formulate substantial question of law.

I have heard learned counsel for the appellant and appraised the paper book and of the view that simpliciter suit for permanent injunction was ex facie not maintainable for the reason that the appellant-plaintiff has failed to discharge onus viz-a-viz parentage much less the fact that prior to the filing of the suit, two consumer complaints were filed and outcome of the same has not been explained. Rather, from the affidavit brought on record, it surfaced that the allotment was made in favour of DW-2. The appellant-plaintiff failed to discharge the onus viz-a-viz his submission of application Ex.D-1. The respondents-defendants made the correspondence with Anurudh who is son of Shatrughan (DW-2) and not with the plaintiff who is Anurudh son of Chhedi Lal. In essence, the plaintiff failed to discharge the onus as per the provisions of Section 101 of Indian Evidence Act, 1872.

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

March 10 , 2016
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