

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3348 of 2014 (O&M)
Date of decision : March 22, 2016

Vikramjit Kaur and another

..... Appellants

Versus

Kartar Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Kewal Krishan, Advocate for
Mr. Premjit Kalia, 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. 7756-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 153 days in filing the appeal is condoned.

The application stands disposed of.
CM No. 7757-C of 2014

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 43 days in refiling the appeal

is condoned.

The application stands disposed of.

CM No. 7758-C of 2014

This is an application under Order 22 Rules 3 read with Section 151 CPC for bringing on record the legal representatives of Swaran Kaur who is stated to have died on 28.12.2010, duly supported by an affidavit. The legal representatives of the Swaran Kaur are permitted to be brought on record as mentioned in the application subject to all just exceptions.

Amended Memo of Parties has already been annexed, the same is taken on record.

Registry is directed to place it at an appropriate place.

The application is disposed of.

RSA No. 3348 of 2014 (O&M)

The appellants-L.Rs of defendant No.1 are aggrieved of the decretal of the suit whereby the respondents-plaintiffs have been granted decree to the effect that plaintiff is owner in possession of the land measuring 5 Kanals 3 Marlas i.e.1/2 share out of land measuring 10 Kanals 1 Marla bearing Khasra Nos. 25/24/1 (0-18), 17 (6-1), 18 (3-2) and 446 (0-2) situated in Village Mallian, Tehsil and District Amritsar with a consequential relief of injunction whereby defendant No.1 (since deceased) had been restrained not to interfere in the possession and decree of joint possession of land out of the aforementioned land had been mentioned.

Learned counsel appearing on behalf of the appellants in support of grounds of appeal has raised multi fold arguments in order to enable the Court to form an opinion that the judgments and decrees of both the courts are not sustainable in the eyes of law and suffer from illegality and perversity.

He further submits that the plaintiffs have failed to prove the original sale deed dated 4.2.1988 and only certified copy of the same was produced. The assertion of the plaintiffs that Bhira died on 19.2.1988 and the death certificate Ex.PW4/B was only given in the evidence which was objected to and the same was not rebutted. The factum of death of Bhira has not been proved whereas on the contrary Bhira had appeared and acknowledged execution of the sale deed dated 22.2.1988 Ex.D-1. Both the courts below have ignored these facts that the plaintiffs have failed to discharge the onus, thus the suit was liable to be dismissed and urges this Court to formulate substantial questions of law as culled out in the grounds of appeal for determination by this Court.

I have heard learned counsel for the appellant and appraised the paper book and of the view that there is no merit in the appeal for the reason that, if, for the arguments sake it is assumed that Bhira had appeared, nothing prevented the defendants to challenge the sale deed dated 4.2.1988 by examining an expert for comparing the admitted thumb impression on the sale deed dated 4.2.1988 viz-a-viz admitted signatures on the sale deed dated 22.2.1988. Bhira in examination-in-chief did not utter a word that she never executed the sale deed dated 4.2.1988.

PW-2, Mohinder Pal, Senior Clerk, office of Sub Registrar, Amritsar had been summoned to show the record that sale deed dated 4.2.1988 was executed vide Vahi No.1, Zild No.4872 page No.26 and certified copy was also produced. In essence, the sale deed has been proved by him as Ex.PW1/1. The plaintiffs have also been examined as witnesses viz-a-viz death of Bhira.

Be that as it may, the fact remains that in view of the aforementioned facts, once the defendants have failed to challenge the sale deed dated 4.2.1988, Bhira did not have title to pass on the land in dispute to the defendants vide sale deed dated 22.2.1988.

In view of the aforementioned facts, I am in agreement 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 22, 2016
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