

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

**Regular Second Appeal No.4488 of 2014 (O&M)
Date of Decision: March 18, 2016.**

Dharampal Kapur

.....APPELLANT(s).

VERSUS

Tilak Raj and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vivek Salathia, Advocate
for the appellant (s).

SURINDER GUPTA, J.

CM-10393-10394-C-2014

Heard. There is delay of 64 days in filing and 87 days in re-filing the appeal.

2. Learned counsel for the appellant submits that appellant is old aged person of 86 years and is presently residing at Delhi. Due to the old age, he could not procure all the documents required for filing the appeal in time, which resulted in delay of 64 days in filing the appeal, which was not intentional.

3. After filing the appeal, certain objections were raised by the registry, which were conveyed to the appellant at Delhi and it again took time for him to go and collect the certified copies from the Court at Amritsar.

This resulted in 87 days delay in re-filing the appeal.

4. In view of submissions made by learned counsel for the appellant, supported by affidavits, the applications are allowed and delay of 64 days in filing and 87 days in re-filing the appeal is, hereby, condoned.

RSA-4488-2014

5. The appellant-plaintiff Dharampal Kapur filed suit seeking the relief of permanent injunction restraining the defendants from causing any kind of hindrance in the construction work to be made by the plaintiff in the property bearing No.3277/II to 3283/II(Old) and New No.2189/XI-15 situated at Lohgarh Gate, Amritsar and also from creating any kind of hindrance and obstacle in the free access of plaintiff and his representatives in the demised premises.

6. Learned lower Court dismissed the suit of the plaintiff with the observations that firstly, he has not produced any evidence with regard to his possession over the suit property and secondly, he himself has not appeared as witness and examined his attorney.

7. The first Appellate Court also dismissed the appeal with the observation that plaintiff has not produced any site plan of the disputed property. He is landlord and the defendants are tenant under him and the remedy available to the plaintiff was under the relevant Rent Act. He has also suppressed the material facts regarding the previous litigation between the parties. It was proved on record that the plaintiff never came into possession of the suit property.

8. Learned counsel for the appellant-plaintiff could not point out that the above findings of the Courts below are based on misreading of

evidence or any document on record has been ignored by the Courts while

appreciating the evidence.

9. On perusal of the record and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

10. No substantial question of law requiring determination arises in this appeal, which has no merits.

11. Dismissed.

March 18, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE