

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

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Regular Second Appeal No.4835 of 2014 (O&M)
Date of Decision: May 02, 2016

Jagrup Singh

...Appellant

Versus

Balbir Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Punchhi, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.11350-C of 2014

Prayer in this application is for condonation of delay of 15 days
in filing the appeal.

For the reasons mentioned in the application which is supported
by the affidavit of the applicant-appellant, the present application is
allowed.

Delay of 15 days in filing the appeal stands condoned.

RSA No.4835 of 2014

Challenge in this appeal is to the judgment and decree passed
by the Additional District Judge, Ferozepur, dated 09.05.2014, whereby the
appeal preferred against the judgment and decree passed by the Additional
Civil Judge (Senior Division), Zira, dated 08.10.2013, by which the suit
filed by the respondent-plaintiff was dismissed for permanent injunction
restraining the appellant-defendant from interfering in peaceful possession
of the respondent-plaintiff and dispossessing him forcibly and illegally from
the land measuring 48 kanals 0 marla as detailed in the headnote of the suit,
situated in village Tanna Bagga, Tehsil Zira, has been allowed.

2. It is the contention of learned counsel for the appellant that the learned Lower Appellate Court has without any justifiable reason set aside a well reasoned and considered judgment of the trial Court. He contends that the appeal of the respondent-plaintiff has only been allowed on the plea that there is bald statement of the appellant-defendant. He contends that these observations of the learned Lower Appellate Court are not correct as the neighbour of the appellant-defendant namely Tara Singh DW-2 had also supported the assertion of the appellant-defendant. In any case, he contends that the respondent-plaintiff is not even the resident of the village. The revenue entries on which reliance has been placed by the learned Lower Appellate Court were got corrected by the appellant-defendant in the application for correction of the khasra girdawaris as recorded in favour of the respondent-plaintiff and now they stand in the name of the appellant. Even the compensation for the damages of the crops were paid to the appellant-defendant by the Government which clearly establishes that the possession was in the hands of the appellant-defendant and not with the respondent-plaintiff and, therefore, there was no question of granting the decree of injunction. He, thus, contends that the judgment and decree passed by the learned Additional District Judge, Ferozepur, cannot sustain and deserves to be set aside and that of the Additional Civil Judge (Senior Division), Zira, restored.

3. I have considered the submissions made by learned counsel for the appellant and with his able assistance, have gone through the impugned judgment dated 09.05.2014 passed by the Additional District Judge, Ferozepur as also the judgment of the trial Court.

4. What has been asserted by the counsel for the appellant cannot be accepted as regards the change in the revenue record as no subsequent entries, as has been stated, have been brought on record by the appellant-defendant either before the Lower Appellate Court or before this Court by way of moving an application for additional evidence. In the absence of any document being available on the record supporting the assertion of the appellant, the same cannot be accepted and, therefore, the conclusion of the Lower Appellate Court that there are bald statements of the defendant without being supported by any documentary evidence, cannot be faulted with. When an oral statement is to be compared with that of a documentary evidence, more credence has to be given to the documentary evidence which principle has been duly followed by the Lower Appellate Court in coming to the conclusion that the respondent-plaintiff has been able to establish his possession over the suit land with effect from 1992-93 onwards on the basis of revenue records.

5. In view of the above, the findings as recorded by the learned Lower Appellate Court, cannot be faulted with as there is no perversity or illegality in the same.

6. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.11349-C of 2014, stands disposed of as infructuous.

May 02, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE