

RSA No. 5349 of 2014 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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C.M. Nos. 12652-53-C of 2014 and
RSA No. 5349 of 2014

Date of Decision: 22.03.2016

Geeta and others

.....APPELLANTS

VERSUS

Jai Kumar and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

PRESENT: Mr. Kanwaljit Singh, Sr. Advocate,
with Ms. Jaswinder Kaur, Advocate,
for the appellants.

AUGUSTINE GEORGE MASI, J (ORAL)

C.M. No. 12652-C of 2014

Prayer in this application is for condonation of delay of 82 days
in re-filing the appeal.

For the reasons mentioned in the application, which is duly
supported by the affidavit of appellant No. 1, the same is allowed. Delay of
82 days in re-filing the appeal is condoned.

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Challenge in this appeal is to the judgment and decree passed
by the Additional Civil Judge (Senior Division) Gohana dated 02.11.2011,
whereby the suit for declaration with consequential relief of permanent
injunction preferred by the father of the present appellants, who died during
the pendency of the suit, stands dismissed, appeal against which preferred
has also been dismissed by the District Judge, Sonapat on 29.01.2014.

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It is the contention of the learned senior counsel for the appellants that on 24.03.2007, Civil Suit No. 125 of 2006 was filed by the respondent-defendants and on the same date, Civil Suit No. 123 of 2006 was also filed where the statements were recorded and as a consequence thereof, as per the fake family settlement, the decree was passed on 26.05.2007. He contends that there was no reason for filing two separate suits on the same date, one for exchange and the other for declaration for the remaining land for the family settlement. He, therefore, contends that the judgments and decree, as passed by the Courts below, cannot sustain and deserve to be set aside. Learned senior counsel for the appellants has referred to para-10 of the grounds of appeal, according to which, RSA No. 2926 of 2014 titled as Kavita and others vs. Jai Kumar and others, stands dismissed on 30.05.2014.

I have gone through the said judgment passed by this Court and find that the plea of the counsel for the appellants cannot be accepted in the light of the observations of the Court in the said judgment. It is not in dispute that the present appeal is against the common judgment, which was under challenge in RSA No. 2926 of 2014.

In view of the above, the present appeal being devoid of merit stands dismissed in the same terms as RSA No. 2926 of 2014 titled as Kavita and others vs. Jai Kumar and others.

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In the light of the dismissal of the main appeal, no separate orders are required to be passed in this application for stay and, therefore, the same stands dismissed.

March 22, 2016

**(AUGUSTINE GEORGE MASIH)
JUDGE**