

RSA No. 5638 of 2014 (O&M)

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

RSA No. 5638 of 2014 (O&M)

Date of Decision: January 29, 2016

Jagdish Chand

...Appellant

Versus

Devi Ram

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Gurvinder Sandhu, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

CM-13387-C-2014 and
RSA No.5638 of 2014

Prayer in CM No.13387-C-2014 is for condonation of
delay of 113 days in filing the appeal.

The reasons given in the application for the delay is that
the applicant-appellant did not have sufficient funds to engage the
counsel to file the appeal and further that he is an illiterate person
and has no knowledge of technical procedure of law.

The reasons as given in the application for condonation of
delay, cannot be accepted to be just and reasonable which would be
said to be sufficient for condoning the delay in filing the appeal,
however, on the insistence of the counsel for the applicant-appellant,
the case has also been taken up and heard on merits but there also,

this Court finds no merit in the appeal as the suit was for seeking permanent injunction which was filed by the appellant-plaintiff asserting himself to be the owner of the land in dispute bearing Khasra Nos.130, 131 and 132 which was marked by letters ABCD and shown in the red colour in the site plan attached with the plaint. The declaration as has been prayed for has rightly been declined to the appellant-plaintiff on the ground that he has not been able to prove his possession over the suit land i.e. with regard to Khasra Nos. 130 and 132. Qua Khasra No.131 on the basis of the documentary evidence, it has been held that the said khasra number is a public rasta and belongs to *shamlat deh* and therefore, there was no question he having been in possession of the said khasra number.

The judgments as passed by the Courts below, thus, cannot be faulted with. The appeal, therefore, being without any merit, deserves dismissal especially when there are concurring findings recorded by the Courts below which are based on proper appreciation of the pleadings and the evidence brought on record which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same. Further, no substantial question of law arises in the present appeal which requires consideration of this Court.

The present appeal, therefore, stands dismissed on the ground of limitation being barred as also on merit.

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CM No.1036, 1037 and 1038-C of 2016

Prayer in CM No.1038-C of 2016 is for leading additional evidence by way of production and documents Annexures A-1 to A-22 for proper adjudication of the case. The documents which are being sought to be placed on record as Annexures A-1 to A-22 pertain to the house which is owned and possessed by the appellant-plaintiff. The said land is different from the one in dispute in the present suit and therefore, would not, in any manner, concern with the case of the appellant-plaintiff. Nothing in these documents indicates the possession of the appellant-plaintiff over the suit land. The applicant-appellant should have produced these documents before the Courts below as these are the documents which were in his possession prior to filing of the suit which he did not chose to do so.

In view of the above, no merit is found in CM No.1038-C of 2016 and therefore, the same stands dismissed.

The CM No.1036-C of 2016 and CM No.1037-C of 2016 are also stand dismissed in view of the observation made above.

January 29, 2016

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**