

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

RSA No.6834 of 2016 (O&M)

Date of Decision: July 26, 2017

Harbhajan Singh

... Appellant

Versus

Sanatan Dharam Sabha and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Prateek Pandit, Advocate,
for the appellant.

ANIL KSHETARPAL, J.

CM 17801-C of 2016

This is an application seeking condonation of delay of 274 days' in filing the present appeal. It is stated that the appellant is about 80 years of age and due to his ill health, he could not visit the counsel at Chandigarh. The application is supported by an affidavit.

For the reasons stated in the application, delay of 274 days' in filing the present appeal is condoned.

RSA No.6834 of 2016

Plaintiffs have filed this Regular Second Appeal against dismissal of the suit by both the Courts below.

Plaintiffs had filed a suit for declaration and permanent injunction. Plaintiffs had, in fact, challenged the lease deed dated 18.07.1988 executed by Shri Narain Gir for 99 years on the ground that there was no legal necessity to lease the land and it was an act of

mismanagement. A manager has no power to transfer the property of an institution to any private person or create lease for 99 years.

The trial Court after appreciating the evidence available on the file, dismissed the suit filed by the plaintiffs on merits as well as on the ground that the plaintiffs have no *locus standi*. The trial Court noticed that the land was leased out to an institution, which has already constructed a women college on the land and this is the only women college in the area.

Appeal filed by the plaintiffs was also dismissed. However, the finding of the trial Court that the plaintiffs have no *locus standi* was set aside. The first Appellate Court further recorded a finding that the suit filed by the plaintiffs is beyond the limitation and also barred by *res judicata*.

I have heard learned counsel for the appellant at length and with his able assistance gone through the judgements passed by the Courts below.

It is not in dispute that the lease deed was executed in favour of an educational institution, which is a registered body – Sanatan Dharam Sabha. It is also not in dispute that on the land, S.D. College for Women has been constructed and is running for quite some time. The college is being run with the grants given by the State of Punjab and the Central Government. It is also not in dispute that the gate of the temple is separate. Learned first Appellate Court has further found that the plaintiffs were in the knowledge of the lease deed as well as construction of the college, but they did not take any step to challenge the lease deed within the limitation prescribed. Such finding is not shown to be erroneous or perverse.

Learned first Appellate Court has also relied upon the

judgement passed by the Additional Civil Judge (Senior Division), Kapurthala in Civil Suit No.369 of 16.11.1992, wherein the lease deed was upheld. Learned counsel for the appellant has not challenged the aforesaid finding of the Court below.

Learned counsel for the appellant has not been able to point out any substantial question of law involved in the present appeal in terms of Section 100 CPC. Counsel for the appellant has further failed to point out any ground for interference in the Regular Second Appeal, which may fall within the scope of Section 41 of the Punjab Courts Act, 1918.

In view of the above, the present appeal is ordered to be dismissed.

(ANIL KSHETARPAL)
JUDGE

26.07.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No