

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

RSA No.2037 of 2017 (O&M)

Date of Decision: 26.09.2017

Daya Nand

... Appellant

Versus

Smt. Saraswati and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.S. Mor, Advocate,
for the appellant.

ANIL KSHETARPAL, J. (ORAL).

CM 4893-C of 2017

For the reasons stated in the application, which is supported by an affidavit, the same is allowed and delay of 162 days' in filing the present appeal is condoned.

Main Case.

Defendant No.1 is in Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

The plaintiffs had filed a suit for possession and permanent injunction with the allegations that the defendants have encroached upon 81 sq. yds. area owned by the plaintiffs. The plaintiffs had filed the suit after getting the land demarcated from the revenue official i.e. Kanoongo. The demarcation report is signed by defendant No.1/appellant. The demarcation report is Ex. P5 and the attendance sheet is Ex. P6. The aforesaid revenue official i.e. Kanoongo Jagdev Singh has been examined

as PW1.

Both the Courts after discussing the evidence have found that the plaintiffs have been able to establish the encroachment by the defendants. The defendant/appellant failed to produce any counter evidence.

Learned counsel for the appellant has submitted that the suit filed by the plaintiffs is barred by time.

I have examined the aforesaid argument.

Learned trial Court had framed issue No.6 on this question. It was concluded by the trial Court that since the defendants have not claimed adverse possession, therefore, the suit filed by the plaintiffs for possession cannot be held to be barred by time. I do not find any error in the approach of the learned trial Court.

Before the first Appellate Court, learned counsel for the appellant did not press this issue.

In these circumstances, finding no merit in the present appeal, the same is dismissed.

26.09.2017

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(ANIL KSHETARPAL)
JUDGE

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