

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

**RSA No.280 of 2017 (O&M)
Date of Order:31.07.2017**

Krishna and another

..Appellants

Versus

Hari Chand and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil Kumar Gahlawat, Advocate,
for the appellants.

ANIL KSHETARPAL, J (Oral)

C.M.No.623-C of 2017

Prayer in this application is for condonation of delay of 100 days in re-filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, the application is allowed and delay of 100 days in re-filing the appeal is condoned.

C.M.No.624-C of 2017

Prayer in this application is for condonation of delay of 137 days in filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, the application is allowed and delay of 137 days in filing the appeal is condoned.

RSA No.280 of 2017

Plaintiffs have filed the present Regular Second Appeal against concurrent judgments and decrees passed by the Courts below.

Plaintiffs had filed a suit for declaration, possession and mandatory injunction, alleging that Jarnail Singh, predecessor-in-interest, was a habitual heavy drinker and therefore, defendants taking advantage of the situation got executed a registered lease deed and a sale deed on 07.05.1987. Plaintiffs had claimed that both these transactions were without consideration. Plaintiffs had also claimed that registered lease deed and the sale deed were the result of fraud.

Defendants contested the suit.

After appreciating the evidence available on the file, the learned trial Court dismissed the suit filed by the plaintiffs while recording a finding of fact that plaintiffs has not been able to prove their case.

First appeal preferred by the plaintiffs has also been dismissed after re-appreciating the evidence available on the file. Learned first appellate court has recorded cogent reasons for dismissing the appeal.

Counsel for the appellants has submitted that the Courts below have not appreciated the facts that fraud is apparent on the file. It is further submitted by counsel for the appellants that Jarnail Singh was habitual heavy drinker, therefore, the defendants had taken advantage of the situation and got executed the registered lease deed and registered sale deed.

I have carefully considered the arguments made by counsel for the appellants and with his able assistance gone through the judgments and decrees passed by the Courts below.

The lease deed as well as the sale deed are registered documents registered under the Registration Act. The registered documents have presumption of genuineness and having been executed in accordance with law. Plaintiffs had not been able to establish sufficient evidence on the

record, which may rebut the presumption available to registered documents. In the present case, Jarnail Singh died on 30.04.1988. The suit was filed on 09.02.2010, after a period of approximately 22 years from the date of death and 23 years after the lease deed and sale deed were executed and registered. Plaintiffs have asserted that the defendants are not residents of their village and therefore, they did not come to know of the lease deed and sale deed.

As per Section 3 of the Transfer of Property Act, documents duly registered have a presumption of knowledge to everyone. The presumption available to the registered document has not been rebutted. Therefore, the suit filed by the plaintiffs was ex-facie barred by time.

Learned Courts below have further recorded that plaintiffs have failed to establish that Jarnail Singh was a habitual heavy drinker or was under influence of liquor at the time when lease deed and sale deed was registered.

Taking into consideration the facts and circumstances of the case, I do not find any reason to differ with the concurrent findings of fact arrived at by the Courts below.

Regular Second Appeal is ordered to be dismissed.

July 31, 2017
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No