

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

**RSA No.5792 of 2014 (O&M)**

**Date of decision : 04.08.2017**

Dharam Pal and others

.....Appellant(s)

versus

Ashwani Kumar and others

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. G.K.S Taank, Advocate  
for the appellants.

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**ANIL KSHETARPAL, J. (ORAL)**

**CM-13744-C-2014**

Prayer in this application is for condonation of delay of 730 days in re-filing the appeal.

For reasons set out in the application, which is supported by an affidavit, the application is allowed and delay of 730 days in re-filing the present appeal is condoned.

**CM-13745-C-2014**

Prayer in this application is for condonation of delay of 11 days in filing the appeal.

For reasons set out in the application, which is supported by an affidavit, the application is allowed and delay of 11 days in filing the present appeal is condoned.

**CM-13746-C-2014**

This is an application under Order XXII Rule 4 CPC for bringing on record legal heirs of respondent Nos.4 & 5.

Application is allowed subject to just exceptions.

**RSA No.5792 of 2014**

Plaintiffs are in regular second appeal against the concurrent findings of fact arrived at by the Courts below. Plaintiffs had claimed that their predecessor-Hari Ram had purchased land measuring 14 marlas vide sale deed dated 16.09.1953. It is further pleaded by the defendants that while entering the mutation of 18 marlas land was sanctioned in favour of late Sh. Hari Ram and that is how they are continuing to be in possession of the 18 marlas of the land. Defendant appeared and contested the suit. Defendants claims that this 4 marlas land is in their possession.

[2] Learned trial Court after appreciating the evidence available on the file partly decreed the suit filed by the plaintiffs and restrained the defendants from interfering in 14 marlas plot as purchased by late Sh. Hari Ram. Plaintiffs were also granted declaration that they are owner in possession of 14 marlas of plot.

[3] Plaintiffs filed first appeal. Learned first appellate Court after re-appreciating the evidence available on the file chose to dismiss the appeal.

[4] I have heard learned counsel for the appellants at length.

[5] Learned counsel for the appellants has submitted that even if the plaintiffs are not proved to be owner of remaining 4 marlas of land, however, they have become owner by way of adverse possession.

[6] Learned counsel has further submitted that defendants have not

been able to prove their ownership with regard to 4 marlas of land. Therefore, the suit of the plaintiffs ought to have been decreed.

[7] I have carefully considered the submissions of learned counsel for the appellants. However, I am unable to agree.

[8] It is not in dispute that the predecessor of the appellants had purchased only 14 marlas of land. The ownership of the plaintiffs would not enlarge beyond 14 marlas. Plaintiffs in the regular second appeal is taking the plea of having acquired the title by way of adverse possession. No issue of adverse possession was framed by the Courts. Further the plaintiffs cannot maintain a suit for declaration that they have become owner by way of adverse possssion.

[9] Learned counsel for the appellants has further submitted that since the defendants have also failed to prove right, title or interest in the property. Therefore, the suit filed by the appellants should have been decreed.

[10] I have considered the submission made by learned counsel for the appellants. It is well settled principle of law that plaintiffs have to stand on his own legs. In this case, the plaintiffs had filed the suit on the basis of the sale deed which is only with respect to 14 marlas. There was no further document of title. It is not even the allegation of the plaintiffs that they have purchased any additional land.

[11] Both the Courts have on appreciation of evidence concurrently found that the plaintiffs are neither entitled to the declaration nor to the injunction.

[12] For the reasons recorded above, I do not find any reason to interfere in the concurrent findings of fact arrived at by the Courts below.

**[13]** Regular Second Appeal is ordered to be dismissed.

**(ANIL KSHETARPAL)  
JUDGE**

**August 04, 2017**

*sahil soni*

**Whether speaking/reasoned : Yes/No**

**Whether reportable : Yes/No**