

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM No.6353-C-2010 in/and
RSA No.2086 of 2010 (O&M)
Date of Decision : 25.04.2018

Improvement Trust, Ambala City

..... Appellant

Versus

Punjab Wakf Board now Haryana Wakf Board
through its Estate Officer, Ambala Cantt. and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. R.P.Singh Ahluwalia, Advocate and
Mr. Mayank Bansal, Advocate
for the applicant-appellant.

Mr. Sandeep Punchhi, Advocate
for respondent No.1.

Dr. Sushil Gautam, D.A.G., Haryana.

AJAY TEWARI, J. (Oral)

CM No.6353-C-2010

This is an application for condonation of 32 days delay in re-filing the appeal.

For the reasons recorded in the application, the same is allowed and delay of 32 days in re-filing the appeal is condoned.

RSA No.2086 of 2010

This appeal has been filed against the judgment of the lower Appellate Court. Since a very limited issue has been raised which has now

been settled by the learned counsel, detailed reference to the facts may not be necessary.

The solitary contention raised by the learned counsel for the appellant is that the lower Appellate Court allowed an appeal filed by respondent No.1 but that appeal was not maintainable because it was only against a finding and not against the decree. He has relied upon a judgment of the Supreme Court titled as ***Banarsi & Ors. Vs. Ramphal, reported in AIR 2003 Supreme Court 1989*** in support of this proposition.

Mr. Sandeep Punchhi, Advocate states that he is not in a position to dispute this proposition of law but if respondent No.1 now files an independent suit the appellant would take the plea that it is either barred by *res-judicata* and constructive *res-judicata*.

Counsel for the appellant has fairly stated that in case respondent No.1 now files an independent suit the appellant would not take the plea of *res-judicata* and would contest any such suit on merits.

Appeal stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

25.04.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No