

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.2811 of 2013 (O&M)
Date of Order:19.02.2018

Lehmbar Singh

..Appellant

Versus

Major Ram and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sarju Puri, Advocate,
for the appellant.

Mr. Malkeet Singh, Advocate
for respondents no.1 to 3.

ANIL KSHETARPAL, J (Oral)

C.M.No.7465-C of 2013

Prayer in this application is for condonation of delay of 20 days
in filing the appeal.

For reasons mentioned in the application, which is supported by
an affidavit, the delay of 20 days in filing the appeal is condoned.

Application is allowed.

MAIN

Plaintiff-appellant is in regular second appeal against the
concurrent findings of fact arrived at by the courts below.

On 16.02.2018, learned counsel for the applicant had pointed
out that for similar reliefs, plaintiff-appellant had filed two suits, by
impleading two sets of defendants. He pointed out that the second suit was
dismissed by the trial court as well as by the first appellate court, however,
no appeal has been preferred.

On the basis of the aforesaid contentions, this court passed an order on 16.02.2018, which reads as under:-

“During the course of arguments, learned counsel for the applicant in CM No.3968-C-2016, has produced photocopies of the judgments passed by the trial court and the first appellate Court in Civil Suit No.484 of 2011, filed by the plaintiff for the same relief.

It is the contention of counsel for the applicant that the appellant is misusing the process of the Court. He has submitted that for the same relief, plaintiff-appellant had filed two suits. He submits that in both the suits, plaintiff had impleaded different sets of defendants. It is further asserted by learned counsel for the applicant that no regular second appeal has been filed against the judgment passed by the learned first appellate court, dismissing the appeal filed by the appellant on 27.10.2012.

Learned counsel for the appellant seeks some time to verify these facts.

To come up on 19.02.2018, for remaining arguments.

To be listed in urgent.”

Today learned counsel for the appellant after seeking instructions from the plaintiff-appellant has stated that another suit was filed for similar relief which was dismissed and affirmed in appeal. However, no further appeal was carried out because the appellant had settled the matter with the

aforesaid defendants. He submits that this appeal should be considered independently.

This court has considered the submission of learned counsel, however, do not find any substance therein. Once the plaintiff himself had filed a suit with respect to the same property and similar relief against two different sets of defendants and findings in both the cases come against him, plaintiff cannot be permitted to challenge one and abandon the other.

The findings arrived at in the other suit is at least binding on the plaintiff as the other suit was also filed by him.

In these circumstances, this Court does not find any good ground to interfere in the second appeal in view of the admitted facts available on the file.

The regular second appeal is dismissed.

NOTE:- All the misc. applications shall stand disposed of in view of the judgment passed.

February 19, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No