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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CM No.5341-C of 2016in/and
RSA No.2014 of 2016
Date of Decision: 04.09.2018**

Vidya Sagar through LR Kapil Dev Gupta

.....Appellant

Versus

Satya Narain and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPALPresent:- Mr. Anish Garg, Advocate
for the appellant.Mr. P.L. Singla, Advocate
for respondent No.1.**ANIL KSHETARPAL J. (oral)**

Defendant-appellant is in the Regular Second Appeal against the concurrent findings of fact. The appeal was filed after a delay of 1317 days, as the appeal was filed on 22.04.2016 whereas impugned judgment was passed on 01.06.2012. Appellant has stated that he was operated thrice for brain tumour and thereafter he continuously remained under treatment. It is not disputed that last surgery was conducted on the appellant on 19.10.2011 i.e. During the pendency of the first appeal. Still further, Lt.Vidya Sagar was original defendant, he has left behind four sons who were impleaded as legal heirs. It has been stated in the application that other legal heirs lost interest in the litigation.

In the considered view of this Court, the reasons for seeking

condonation of delay of 1317 days are not sufficient, the delay has not been properly explained.

This Court has also heard learned counsel for the parties at length on merits.

As noticed, both the Courts below have decided against the defendant-appellant.

Dispute is only with regard to unauthorized encroachment by the defendant-appellant. Demarcation was carried out by a Revenue Official who has submitted a report pointing out that there is an encroachment before the Courts below. It was argued that the demarcation has been carried out without first determining pucca points. However, first Appellate Court has noticed that both the parties at the time of demarcation had agreed that boundary line between village Sukhia-bad and Salwara be taken as pucca point for carrying out demarcation. This is what exactly was done by the Revenue Official. Although defendants have pleaded adverse possession, however, no evidence has been led to prove that fact. In view thereof, there is no ground to interfere on limitation as well as on merits. An application for condonation of delay as well as the appeal are hereby dismissed.

All the pending miscellaneous applications, if any, are disposed of in view of the abovesaid judgment.

(ANIL KSHETARPAL)
JUDGE

September 04, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No