

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

RSA No. 1423 of 2015(O&M)

Date of decision: 4.4.2018

Murti Devi

....Appellant

VERSUS

Balwan

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rakesh Dhiman, Advocate for the appellant.

REKHA MITTAL, J.(Oral)

CM No.4889-C of 2018

Heard.

Allowed as prayed for.

Affidavit of Sh. Rakesh Dhiman, Advocate is taken on record.

Disposed of accordingly.

CM No.4019-C of 2015

Prayer in this application is for condoning delay of 239 days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Mr. Rakesh Dhiman, Advocate, the application is allowed.

Delay of 239 days in re-filing the appeal stands condoned.

Disposed of accordingly.

RSA No.1423 of 2015

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit filed by the appellant for

possession of the house in question situated within the abadi deh of village Mau Tehsil Pataudi, District Gurgaon was dismissed by the trial Court and findings recorded by the trial Court have been affirmed in appeal.

Counsel for the appellant would argue that originally Mukh Ram was owner in possession of the suit property. After death of Mukh Ram, the same was inherited by his son namely Bhuru who got married with Chhoti (since deceased). Out of wedlock of Bhuru and Chhoti, six children namely Ganpat, Daya Ram, Data, Phool, Rajo and Jal Kaur were born and the appellant/plaintiff is the widow of Ganpat (since deceased) son of Bhuru. After death of Bhuru, Chhoti contracted marriage with Bhuru son of Ram Lal and out of her wedlock with Ram Lal, two sons namely Balwan – respondent and Jagmal Singh were born. It is further argued that the appellant was residing in the property in dispute since the lifetime of her husband and respondent was living in the portion shown in green colour, adjacent to house of the appellant/plaintiff. She was dispossessed from the house by the respondent with the help of Uddal and Jagmal.

Counsel for the appellant has further submitted that the Courts failed to appreciate the documentary evidence in right perspective while rejecting claim of the appellant/plaintiff, therefore, judgments passed by the Courts suffer from perversity and liable to be set aside. To bring home his contention, it is argued that the appellant produced and proved document Ex.P21/T wherein Ahata No.7 is shown to be in the name of Ram Karan, caste Jat and said Ram Karan was the predecessor in interest of Ganpat, her husband. It is further submitted that the appellant adduced overwhelming evidence on record with regard to her having been

dispossessed from the suit property illegally and by use of force by Balwan and his associates.

I have heard counsel for the appellant, perused the paper-book particularly the judgments passed by the Courts but find that the appeal sans merit and liable to be rejected.

Perusal of facts narrated in brief, in para 2 of the judgment by the trial Court would reveal that in the plaint, there is no reference that the suit property has anything to do with Ahata No.7. It is also not plea of the appellant that Ram Karan was related to her husband Ganpat or property in question belonged to Ram Karan. In the given scenario, the Courts have rightly refused to rely upon document Ex.P21/T in favour of the appellant with regard to her claim of ownership of the house in question. As the appellant failed to adduce satisfactory much less cogent and convincing evidence to establish her plea that she is the owner of the house in question, her claim for recovering possession of suit property from Balwan could not be accepted and rightly so.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed *in limine*. No order as to costs.

APRIL 4, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no