

110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3366-2016(O&M)
Date of decision : 12.11.2018

Rang Lal and others

..... Appellants

versus

Ghansham and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Harkesh Manuja, Advocate for the appellants.

AMIT RAWAL, J. (ORAL)

CM No. 8886-C-2016

This is an application for impleading the LR's of Appellant No.2-Jai Pal who is sated to have died on 25.04.2015. For the reasons recorded in the application the same is allowed subject to all just exceptions. Persons mentioned in para 3 of the application are impleaded as LR's of appellant No.2. Registry to make necessary correction in the memo of parties.

CM No. 8887-C-2016

This is an application for impleading the LR's of Appellant No.3-Khillu who is sated to have died on 21.08.2014. For the reasons recorded in the application the same is allowed subject to all just exceptions. Persons mentioned in para 3 of the application are impleaded as LR's of appellant No.3. Registry to make necessary correction in the memo of

parties.

RSA-3366-2016(O&M)

Appellant-plaintiffs have not been successful in seeking declaration and permanent injunction for having become owners by virtue of the provisions of Section 8 of the Punjab Occupancy Tenants(Vesting of Proprietary Rights)Act, 1956, in other words being an occupant tenant. It was alleged that their predecessor-in-interest had been in possession of the suit property since 40 years and the defendants had agreed not to seek eviction.

Defendants contested the suit but denied the status of the plaintiffs under the provisions of the Act and came out with a plea that they were tenants without rent (Gair Marusi). It was averred that the matter in dispute had already been adjudicated by a Civil Judge(Junior Division), Palwal which was pending adjudication before this Court. Defendants No. 2 to 4 alleged that they had already purchased the land from defendant No.1 vide sale deed dated 30.04.2007 and this fact was in the knowledge of the plaintiffs. Parties led evidence and on the preponderance thereof, the trial Court dismissed the suit and the appeal was also dismissed.

The appeal is also accompanied by an application for condonation of delay of 325 days in filing the same on the premise that the talks of compromise were going on, therefore, the delay of 325 days occurred. On merits, it was contended that the connected RSA No. 434 of 1991 has already been decided by this Court on 13.07.2018 whereby the issue of title had been kept open and in the aforementioned suit appellants herein were the respondents. Appellants are the successors-in-interest of

apprised about the pendency of this RSA. Thus, liberty may be granted in case any suit with regard to the title is filed to take the defence as has been taken in the suit.

I have heard learned counsel for the appellants and appraised the paper book and am of the view that there is no force and merit in the appeal as well as in the application for condonation of delay as such a plea cannot fall within the expression 'reasonable cause' and 'beyond control'. It is a settled law that explanation has to be justified and backed by bona fide reasons. The reasons are not conforming to the parameters of Section 5 of the Limitation Act. In the previous round of litigation, suit for injunction was filed against the predecessor-in-interest of appellant Dattu who had taken the plea of adverse possession. However, in the present suit plea of ownership has been claimed by virtue of provisions of Section 8 of the Act *ibid*. Both the pleas are self contradictory and cannot be allowed to run simultaneously. The question of title having been kept open and the other suit was only on the premise that while adjudicating the lis for injunction this Court had exceeded its jurisdiction to determine the right of ownership as inadvertently issue of ownership i.e. issue no.1 was framed. Considering the fact that suit has not been adjudicated by examining the provisions of the Act *ibid* but only on the ground that in the previous suit where the defence of adverse possession has resulted in conferring the ownership on defendant No.1 in the present suit and the plaintiff in the previous suit.

Be that as it may, the fact remains that in case any such suit is filed, appellants can be permitted to take plea, if permissible, in accordance with law but here in this case have not been able to bring the case within the provisions of the Act claiming ownership being occupancy tenant in

accordance with law. Arguments of learned counsel have not been able to bring the case within the realm of illegality and perversity enabling this Court to form a different opinion other than the one arrived at by the Courts below.

No ground for interference is made out.

Appeal is dismissed on the ground of delay as well as on merit.

(AMIT RAWAL)
JUDGE

12.11.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No