

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

**RSA No.366 of 2016 (O&M)
Date of Decision.07.12.2018**

Rakesh and others

....Appellants

Vs

Jagdish and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Bhanvi Sood, Advocate for
Mr. Aditya Jain, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

C.M. No.1118-C of 2016

For the reasons stated in the application, delay of 72 days
in re-filing of the appeal is condoned.

Application is allowed.

RSA No.366 of 2016

The appellants-plaintiffs have not been successful in
seeking declaration and injunction being owners on the basis of sale
deed dated 21.10.2005.

Learned counsel for the appellants submitted that
defendant No.1 and 2 at the back of the plaintiffs obtained a
compromise decree dated 12.11.2005 whereby defendant No.1 had
become the owner. The same was objected to by third party
objections, which were unfortunately dismissed on 02.08.2008.
Appeal preferred before the District Judge was also dismissed and as
such independent suit was filed. The finding of fact and law holding
the suit to be barred under Section 11 is not sustainable.

I am afraid aforementioned argument is not sustainable, for, third party objections set up as per Order 21 Rule 101 CPC have to be treated as independent suit, particularly, when the appellants-plaintiffs have failed in those objections, thus, cannot be permitted to initiate subsequent proceedings by filing fresh suit. The findings of courts below in dismissing the suit on the doctrine akin to *res judicata* cannot be faulted. No ground for interference is made out, much less, no substantial question of law arises for determination by this Court.

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 07, 2018
Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No