

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

RSA No.4417 of 2016 (O&M)

Date of decision : 14.05.2018

Avtar Singh

...Appellant

Versus

Kali Charan Kapoor

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V.K. Sandhir, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.11544-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 731 days in refiling the appeal is condoned.

Application is allowed.

Main Case

The defendant-appellant is in the Regular Second Appeal against the judgment passed by the learned First Appellate Court restraining from raising any construction, addition, alteration or re-construction.

It is admitted case of the defendant-appellant that he was inducted as tenant whereas the case of the plaintiff is that the plaintiff purchased the property in the name of his wife vide sale deeds dated 03.06.2003 Ex.PW2/1, Ex.PW2/2, Ex.PW2/3. The trial Court wrongly

dismissed the suit on the ground that the attesting witnesses of the sale deeds have not been produced and, therefore, the execution of the sale deed is not proved. Learned First Appellate Court has correctly reversed the finding on the ground that the aforesaid sale deeds are registered and, therefore, unless the Executant of the sale deed denies, no formal proof of the registered sale deeds is required to be produced.

Learned counsel for the appellant submitted that he does not wish to make any alteration in the property, however, he submits that the landlord has already initiated the eviction proceedings wherein the judgment under appeal would be used as a evidence.

This Court has considered the submissions.

It is admitted fact that the defendant-appellant claims to be the tenant in the property. No tenant can be permitted to make any structural alteration unless permitted as per the lease deed. In the present case, it is not the case of the defendant-appellant that there was any such permission granted. As far as apprehension of the counsel for the appellant, needless to say that the Rent Controller while decide the eviction proceedings would independently adjudicate upon the dispute without being influenced by the judgment under challenge.

In view of the above, the present Regular Second Appeal is dismissed.

14.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No