

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CM-7775-C-2015 in/and
RSA No.3231 of 2015 (O&M)
Date of Decision : 27.04.2018

Khem Chand (deceased) through LRs and others Appellants

Versus

Tara Chand and others Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. C.B. Goel, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

CM-7775-C-2015

This is an application for condoning the delay of 169 days in
refiling the appeal.

For the reasons recorded, the application is allowed. Delay is
condoned.

RSA-3231-2015 (O&M)

This appeal has been filed against the concurrent judgments of
the courts below decreeing the suit filed by the respondents.

The respondents filed a suit for injunction claiming that they
were owners in possession of the land in dispute on the basis of jamabandi
for the year 2007-08 wherein in column 10 had reflected that their
possession had come by way of a partition. The case of the appellants was

that of simpliciter denial and they took the plea that the jamabandi on the

basis of which the respondents were seeking to prove their possession was a forged and fake document. In the evidence the appellants produced a host of documents to allege that actually the respondents had no connection with the land in dispute and the partition proceedings on which the jamabandi was based was already under challenge at their behest in various civil suits. The courts below however realizing that the issue before them was only of injunction and not of declaration of title, viewed the entire evidence from that angle and came to the conclusion that the appellants had not been able to prove that the jamabandi was false and fake. The courts also came to the conclusion that the final issue of title would be decided in the declaratory suit/s which was filed by the appellants but held that on the basis of the evidence which was there before them, the respondents were proved to be in possession and consequently decreed their suit for injunction restraining the appellants from interfering in their possession except in due course of law. At the cost of repetition, it may be noticed that the appellate court specifically held that the finding in the present suit would have no bearing on the title suits which had been initiated by the appellants and were pending in the courts.

Counsel for the appellants has strenuously argued that the suit of the respondents itself was very vague and without giving any details of how they had come into possession. Counsel for the appellants has further argued that in the plaint the respondents had mentioned that the copy of the partition order and the sanad taksim was attached alongwith the plaint but the same never saw the light of the day during the entire proceedings. Both

this had been a suit for declaration, the arguments of the counsel for the appellants would have been compelling but as noticed by both the courts below, the present case is a limited suit only for the purpose of injunction. Not only that, the appellants have a right to prove that the partition on which the jamabandi of 2007-08 was based was illegal, in the pending suits & in case these suits are decreed obviously the present decision would lose its effect.

In the circumstances, no fault can be found with the judgments of the courts below. Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

April 27, 2018
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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No