

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4701-2016(O&M)
Date of decision : 14.11.2018

Parminder Kaur and another Appellants

versus

Kawaljit Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. APS Sandhu, Advocate for the appellants.

AMIT RAWAL, J. (ORAL)

CM-12165-C-2016

This is an application seeking condonation of delay of 6 days in
refiling the accompanying appeal.

For the reasons set out in the application, that is duly supported
by an affidavit, the delay of 6 days in re-filing the appeal is condoned.

CM stands disposed of.

CM-12164-C-2016

This is an application seeking condonation of delay of 37 days
in filing the accompanying appeal.

For the reasons set out in the application, that is duly supported
by an affidavit, the delay of 37 days in filing the appeal is condoned.

CM stands disposed of.

Main case

Appellant-plaintiffs have not been successful in seeking
declaration of ownership qua his suit property on the basis of registered
sale deed dated 27.02.1997 and joint possession to the extent of 659 share

out of total share of 15791 either before the trial Court and as well as the

Lower Appellate Court.

The aforementioned suit was filed on the premise that the vide sale deed the suit land measuring 70 kanals 13 marlas was purchased from defendants No. 1 and 2 for a total sale consideration of Rs. 1,24,500/- but on acquiring the knowledge of mutation in favour of the private respondents, cause of action accrued to claim the declaration. Defendant No.2 opposed the suit raising the objection of maintainability and limitation. On merits, it was stated that Kanwaljit Singh and Jaspal Singh-defendants No. 1 and 2 were not the owners in possession of 70 kanals 13 marlas of land but Sandeep Singh and Surjeet Singh were the owners thereof.

Mr.APS Sandhu, learned counsel appearing on behalf of the appellants submitted that once the Court had arrived at a finding that vendor of the plaintiff was not the owner of the property, the registered documents could not have been brushed aside and the relief for compensation, as per the provisions of Order 7 Rule 7 CPC should have been moulded despite having made observation in para 16 of the judgment in this regard. On instructions from the client learned counsel submitted that he is ready to pay the court fee in case the Court grants such liberty and such plea could not be barred by limitation or provisions of Order 2 rule 2 CPC as the mutation in favour of the private respondents was asserted only in 2004 and the suit was filed in 2005, thus, the period spent in the Court for the purpose of claiming the relief cannot be added.

I am afraid the aforementioned argument of learned counsel is not sustainable for, it is settled law that where a person did not have the valid title or interest in the property, cannot pass on the same. This is what

has been proved on record that it were defendants No. 3 and 4 who were the

owners and not defendants No. 1 and 2. The plaintiffs had an opportunity to launch appropriate criminal proceedings of having been cheated and claim the alternative relief of recovery but could not be permitted to seek this relief at this stage as the same would be hit by law of limitation and as well as the provisions of Order 2 Rule 2 CPC. The findings of the Courts below do not suffer from any illegality or perversity so as to warrant interference by this Court.

Appeal is dismissed.

(AMIT RAWAL)
JUDGE

14.11.2018
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No