

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.4816 of 2016 (O&M)

Date of Decision: December 19, 2018

State of Haryana and another

.....Appellants

versus

Gondhu and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Amar Vivek, Additional AG, Haryana, for the appellants.

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Amit Rawal, J. (Oral)

The present regular second appeal is directed against the concurrent findings whereby suit of the respondents-plaintiffs for possession and alternatively for compensation has been decreed by the trial Court and affirmed in appeal.

The regular second appeal is accompanied by an application for condonation of 811 days' in filing the appeal. The explanation given in the application is not robust. No reasonable cause for delay has been given.

Learned Additional Advocate General, Haryana, states that while affirming the findings of the trial Court, the respondents-plaintiffs incorporated the following relief which has been made part of the decree:

“.... By way of filing the present application, the applicants -plaintiffs have sought the correction in the relief clause of the judgment dated 04.02.2014 alleging that in para No.14 of the judgment, it was held that the appellants-defendants have encroached upon 0.12 marlas of land belong to respondents-plaintiffs, whereas in para

No.18, it was mentioned that they (Plaintiffs) are held entitled to recover the compensation for the land measuring 0.8 marlas and the appellants -defendants are directed to complete the process of acquisition of land and compensation within six months from today. Due to clerical and typographical error, the land “measuring 0.8 marlas” has been typed in para No.18 of the judgment as well in 6th line of the decree-sheet, whereas it should have been typed as 'measuring 0.12 marlas'.

No reply to the application has been filed by appellants-defendants.

Heard.

In para No.14 of the judgment dated 04.02.2014, it has been observed by the undersigned that if the acquired land is deducted from the land in possession of the appellants-defendants, it comes to be around 12 marlas. The allegations of the appellants-defendants were that the respondents-plaintiffs had encroached upon 04 marla of land belonging to appellants-defendants and that contention of the appellants-defendants does not find favour with the court. “From the sequence of events, it appears that in Para No.18 of the judgment, the area measuring 0.12 marlas should have been mentioned and the area measuring 0.8 marlas has been mentioned inadvertently and due to oversight. Hence, the application for correction stands allowed”. The Reader of this Court is directed to make the necessary correction in the judgment and decree in question as indicated above. Application be tagged with the main appeal file, after due compliance...”

In fact, the subject-matter of the property is 0.12 marlas allegedly not in possession of the plaintiffs-respondents. Appellants shall be at liberty to prove their possession by placing on record the revenue documents at an appropriate time when the decree is to be executed.

While affirming the judgments and decrees of the courts below,
the regular second appeal is dismissed on merits as well as on the ground of
limitation.

December 19, 2018

mohinder

(AMIT RAWAL)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No