

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

-.-

RSA 4868 of 2015 (O&M)
Date of decision: 07.05.2018

Joginderpal and others

..... Appellants

Versus

Pawan Kumar and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Amit Jhanji, Advocate
for the appellants

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Rekha Mittal, J. (Oral)

CM 11640 C of 2015

Prayer in this application is for condonation of delay of 10 days
in re-filing the appeal.

In view of averments made in the application supported by an
affidavit of one of the applicants and arguments advanced, the application is
allowed and delay of 10 days in re-filing the appeal stands condoned.

Main case

The present appeal directs challenge against concurrent
findings recorded by the Courts whereby suit filed by Joginderpal and
others, successors-in-interest of Ram Lal, one of the co-owners of shop No.
NK 11, Old Sabzi Mandi, Jalandhar to claim themselves to be co-owners of
the suit property by challenging sale deeds dated 20.04.1989, Ex. P3 and P4,
to be the result of impersonation has been dismissed by the trial Court and
findings recorded by the trial Court have been affirmed in appeal.

Counsel for the appellants would urge that in para 9 of the judgment passed by the trial Court, there is reference to testimony of Ishar Singh (DW2) to prove factum of exchange of shop No. 11 with shop No. 12 and further possession of Shop No.12 having been taken by Boota Ram and Ram Lal and that of Shop No. 11 taken by Takhur Singh is beyond pleadings and cannot be looked into. Another submission made by counsel is that in sale deed Ex.D3, one Hakam Rai is also stated to be the vendor but it is none of the plea of any of the parties that Hakam Rai was also one of the co-owners of shop No. 11. In addition, it is argued that document Ex.D3 also makes reference to Shop No. 13 and sale of share by Ram Lal qua the said shop but again it is not the case that Shri Ram Lal was one of the co-owners of shop No. 13.

I have heard counsel for the appellants, perused the paper book and records.

Be that as it may, sons and daughters of Shri Ram Lal (since deceased) sought to challenge sale deeds executed way back in April 1989 by filing the suit in April 2006, primarily on the ground that sale deeds do not bear thumb impressions of Ram Lal and the same have been got executed by producing some one else in place of Ram Lal, therefore, the sale deeds are not binding against the appellants/plaintiffs. To substantiate their contention, the appellants examined Mr. Arvind Sood, Handwriting and Finger Prints Expert on the basis of comparison of disputed thumb impression (s) with standard thumb impression of Ram Lal on sale deed dated 20.02.1968 (Ex.P5). The trial Court, in para 15 of the judgment has held that document Ex P5 used for taking standard thumb impression of Ram Lal for comparison with disputed thumb impression (s) has neither

been admitted by the contesting party nor the said document has been proved in accordance with law to establish that the same was thumb marked by Shri Ram Lal (since deceased), therefore, any such comparison by the Handwriting and Finger Prints Expert is of no consequence and avail for the appellants to prove that the sale deeds in question do not bear thumb impressions of Shri Ram Lal. As has been noticed hereinbefore, findings recorded by the trial Court have been affirmed in appeal.

As the appellants did not raise an issue with regard to discrepancies in the sale deeds or one of the sale deeds making reference to shop No. 13, such a factual dispute cannot be allowed to be raised for the first time in the regular second appeal.

Counsel for the appellants is not in a position to challenge the factual findings recorded by the trial Court in para 15 of the judgment on the basis whereof report submitted by so called Expert has been discarded by the Courts.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

No order as to costs.

(Rekha Mittal)
Judge

07.05.2018
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No