

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

**RSA No.5312 of 2015 (O&M)
Date of Decision.20.11.2018**

Bimla Devi and others

...Appellants

Vs

Devi Ram

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Parmod Parmar, Advocate for
Mr. Manoj Makkar, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

The appellant-defendant has not been successful in defending the suit qua possession of 11 marlas belonging to plaintiff as reflected in the demarcation report Ex.PW2/A and site plan Ex.PW2/B.

The appellant-defendant alleged that the demarcation report carried out on 31.10.1999 was done at his back before the filing of the suit. In order to decide the controversy, the Court could have taken the assistance of the local commissioner, thus, the onus has not been discharged.

I am afraid the aforementioned argument is not sustainable, for, the demarcation report of local commissioner is per se admissible as per Order 26 Rule 10(2) CPC. PW2, Bijender Singh had supported contents of the demarcation. The defendants could have rebutted the same through independent report or by cross-examining the demarcator. No such evidence had been brought on record to controvert the unimpeached evidence of the plaintiff.

The appeal is also accompanied by application for

condonation of delay of 862 days in re-filing of the appeal. The explanation put forth is not bona fide.

In view of the aforementioned situation, I do not intend to subscribe to the argument of Mr. Parmar to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed both on the ground of delay as well as on merit.

(AMIT RAWAL)
JUDGE

November 20, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No