

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

**RSA No.1160 of 2017 (O&M)
Date of Decision.06.12.2018**

The State of Punjab and anotherAppellants
Vs
Balwinder Kaur and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Mehardeep Singh, Addl. A.G., Punjab
for the appellants.

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AMIT RAWAL J. (ORAL)

C.M. No.18004-C of 2018

Learned counsel for the appellants seeks permission of
this Court for withdrawal of the application.

Ordered accordingly.

RSA No.1160 of 2017

The appellants-defendants have not been successful in
defending the suit for possession of the property in respect of land
measuring 7 biswas comprised of khasra No.184.

It was alleged that Balwinder Kaur was owner of the
property which was encroached by the defendants and it was used for
cattle fair. Before application for demarcation of the area was
submitted, Kanungo Halqa in the presence of both the parties on
02.05.2012 demarcated the suit property and found the encroachment.
A notice under Section 80 of the Civil Procedure Code was served but
did not yield any result and therefore, the suit was filed on 15.04.2013.

Defendant No.1 denied the encroachment and alleged that
defendant No.2 was in possession.

The plaintiff in respect of the aforementioned assertions in

the plaint, examined PW1 Pritam Singh and PW2 Manak Ram and tendered into evidence jamabandi for the year 2011-12. Manak Ram proved the demarcation report as Ex.P2/A, present sheet Ex.P3 and site plan Ex.P4.

The defendant examined DW1 and closed the evidence.

Learned counsel appearing for the appellants submitted that the demarcation report was not in accordance with law as it was not done in the presence of defendants or pucca points were taken therefore, the suit could not have been decreed.

I am afraid aforementioned argument is not sustainable, as nothing contrary with regard to encroachment surfaced in the extensive cross-examination of PW2. Ownership of the plaintiffs has been proved through jamabandi. In such circumstances, in the absence of any documentary evidence to establish their possession and ownership, the trial Court had no other option but to decree the suit for possession.

The appeal is also accompanied by an application for condonation of delay of 267 days in filing the appeal. The explanation lacks bona fide or reasonable cause.

I do not find any illegality and perversity in the concurrent finding of fact and law, 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 on ground of delay as well as on merits.

(AMIT RAWAL)
JUDGE

December 06, 2018

Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No