

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

RSA No.1420 of 2018(O&M)

Date of decision:11.7.2018

Sukhdev Singh and othersAppellants

VERSUS

Ajmer Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Manpreet Singh Sidhu, Advocate for the appellants.

REKHA MITTAL, J.

CM No.3608-C of 2018

Prayer in this application is for condoning delay of 20 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Sukhdev Singh – appellant No.1, the application is allowed. Delay of 20 days in filing the appeal stands condoned.

Disposed of accordingly.

CM No.3609-C of 2018

Prayer in this application is for condoning delay of 14 days in re-filing the appeal.

Heard.

In view of averments made in the application, the same is allowed. Delay of 14 days in re-filing the appeal stands condoned.

Disposed of accordingly.

RSA No.1420 of 2018

The present appeal directs challenge against concurrent findings recorded by the Courts whereby counter claim filed by the respondents/defendants for possession qua land measuring 1 bigha 5 biswas out of khasra No.21//2/1 was allowed by trial Court and the appeal preferred by the unsuccessful plaintiffs/appellants did not find favour with the Additional District Judge, Sangrur.

The appellants/plaintiffs filed a suit for permanent injunction restraining the respondents/defendants from dispossessing or interfering in peaceful possession of the appellants over land detailed in head-note of the plaint, situated within the revenue estate of village Ghabdan, Tehsil and District Sangrur. In the said suit, defendants/respondents filed a counter claim seeking relief of possession qua land measuring 1 bigha 5 biswa comprising khasra No.21//2/1 on its northern and eastern side by raising a plea that they are the owners of the said land and the same has been encroached upon by the plaintiffs/appellants. The suit for permanent injunction filed by the appellants was withdrawn but the counter claim preferred by the respondents/defendants was decided in their favour and as a result, a decree for possession of the aforesaid land was passed in favour of the respondents/counter claimants.

The sole submission made by counsel for the appellants is that a compromise was effected between the parties on the basis whereof the respondents/defendants ceased to be owner of land comprising khasra No.21//2/1 but the Courts failed to appreciate evidence adduced by the appellants in right perspective, therefore, the judgments passed by the Courts suffer from perversity and liable to be set aside.

I have heard counsel for the appellants, perused the paper-book particularly the judgments passed by the Courts.

The trial Court, in para 12 of the judgment, while dealing with issue No.6 has held that Ajmer Singh/counter claimant No.1 (DW1) has deposed as per the counter claim and proved certified copy of mutation No.3148 Ex.P2. The said mutation reflects that there was partition between the parties and on the basis of said partition, warrant of possession Ex.P3 was issued. Possession of Khasra Nos.47//21/2/1 (1-5-16), 48//25/1/2 (1-1-0), 25/2/1 (1-1-0), 49//5/1 (3-0-0), 51//1(4-0-0) was delivered to Jagtar, Balkar and Manjit sons of Ajmer Singh to the extent of $\frac{3}{4}$ share and Ajmer Singh son of Harnam Singh to the extent of $\frac{1}{4}$ share which includes khasra No.21//2/1.

The appellants have sought to rely upon some compromise deeds in order to assail concurrent findings recorded by the Courts. However, counsel has not disputed that copies of two compromise deeds dated 15.12.2002 and 23.12.2002 were produced on record but the same have not been proved in accordance with law and the same are merely marked as R1 and R2 and not exhibited. Since the appellants have failed to prove any such compromise between the parties in accordance with law, contention raised by the appellants is patently misconceived and liable to be rejected.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

JULY 11, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no