

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

RSA No.2664 of 2017 (O&M)

Date of Order: 22.11.2018

Neelam and Anr.

....Appellants

Versus

Narinder Kumar @ Dimple

....Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Umesh Aggarwal, Advocate for the appellants.

AMIT RAWAL, J (ORAL)

CM No.6618-C of 2017

For the reasons stated in the application, which is supported by an affidavit, the same is allowed. Delay of 97 days in re-filing the appeal is condoned.

RSA No.2664 of 2017

Appellants-plaintiffs have failed before both the courts below to seek injunction as also declaration of ownership over suit property on the basis of registered sale deed dated 23/24.1.2001 as the defendant asserted right by virtue of sale deed dated 21.4.2011 on the premise that no demarcation report establishing the identity of the property had been brought on record.

Learned counsel for the appellants submitted that an application under Order 41 Rule 27 CPC was filed but the same was dismissed. After the decision rendered by the lower Appellate Court, a request was made on 15.7.2015 for demarcation but no effort was made.

I am afraid that the aforesaid argument is not sustainable as it was obligatory on the plaintiff to discharge the onus vis-a-vis relief of declaration. In such cases the only document, which is required to be seen for granting declaration is demarcation report, which could establish the identity of the property.

In view of what has been stated above is sufficient to convince this Court to uphold the well reasoned judgments passed by the courts below.

Dismissed on merits as also on the ground of limitation.

November 22, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No