

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CM-8831-C-2018 in/and
RSA-3329-2018 (O&M)
Date of Decision : 19.09.2018

Janardhan Singh

..... Appellant

Versus

Rano Devi and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Munish Puri, Advocate
for the appellant.

AJAY TEWARI, J. (ORAL)

CM-8831-C-2018

For the reasons recorded, the application is allowed. Delay of
35 days in filing the appeal is condoned.

RSA-3329-2018 (O&M)

This appeal has been filed against the concurrent judgments of
the courts below dismissing a suit filed by the appellant under Order 7 Rule
3 CPC (since he did not lead any evidence). The appellant had filed a suit
challenging a Will. Issues were struck and the case was fixed for evidence
of the appellant on 15.02.2011 for the first time. No evidence was led
despite the grant of various opportunities and one year later i.e. on
12.03.2012 the suit was dismissed on that ground. The appellant did not file

any appeal but filed a civil revision bearing CR No.7911-2014 (after about 2

years) in this Court, challenging the order whereby his evidence was closed. That revision was kept pending for about two years and when it came up for hearing ultimately on 23.02.2016, it was withdrawn and thereafter the first appeal was filed which having been dismissed, the appellant is before this Court.

Counsel for the appellant has argued that in this case adequate opportunity was not granted to the appellant to lead his evidence and prays that one or two opportunities be granted to lead the evidence.

In my considered opinion, no relief can be granted to the appellant. I find from the record that even list of witnesses was not filed. There is no explanation why the appellant could not lead his evidence for a period of one year. Further there is no explanation why immediately after the dismissal of the suit the appeal was not filed within limitation. Further there is no explanation why a completely non maintainable revision was filed after two years.

In the totality of circumstances, counsel for the appellant has not been able to persuade me that the findings of fact recorded by the courts below are either illegal or perverse so as to justify interference of this Court in second appeal.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

September 19, 2018

ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No