

RSA-4074-2017 (O&M)+connected case

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

Date of Decision : 14.2.2018

104 RSA-4074-2017 (O&M)

DARSHAN SINGH

....APPELLANT

VS

SUBEG SINGH AND OTHERS

....RESPONDENTS

104-A RSA-4075-2017 (O&M)

BALWINDER SINGH

....APPELLANT

VS

SUBEG SINGH AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. H.S.Thiara Advocate
for the appellant.

AJAY TEWARI, J.(Oral)

CM-10493-C-2017 in RSA-4074-2017

This is an application for condonation of 116 days delay in
filing the appeal.

For the reasons recorded in the application, the same is
allowed and delay of 116 days in filing the appeal is condoned.

CM-10495-C-2017 in RSA-4074-2017 and
CM-10499-C-2017 in RSA-4075-2017

These are applications for bringing on record the legal

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representatives of the deceased-respondent No.-2.

For the reasons recorded in the applications, the same are allowed and the persons mentioned in paragraph No.2 of the applications are impleaded as legal representatives of respondent No.2 subject to all just exceptions.

CM-10497-C-2017 in RSA-4075-2017

This is an application for condonation of 168 days delay in filing the appeal.

For the reasons recorded in the application, the same is allowed and delay of 168 days in filing the appeal is condoned.

Main Case

These appeals have been filed against the concurrent judgments of the Courts below decreeing a suit filed by the respondents. It may be pointed out here that against the judgment and decree of the trial Court the appellants filed separate appeals before the lower Appellate Court who dismissed the same by a common judgment and decree.

The claim of the respondent was that his father was the original owner of the property who had left behind 6-7 legal heirs and after the death of father he had become owner of the 1/7th share of the property and mutation in favour of the appellants on the basis of the Will dated 20.12.2002 was illegal. Issue No.1 is as follows :-

“1. Whether the Will dated 20.12.2002 is a forged and fabricated document ? OPP”

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The trial Court did not really examine issue No.1 but held that the appellant was not entitled to the property as subject matter of Will was nazul land and the deceased was not competent to transfer the land through Will and consequently, decreed the suit. The appellant filed an appeal. The lower Appellate Court reversed the finding of the trial Court on the issue of competence of the Testator to execute the Will but further held that the appellants had led no evidence in respect of the Will. They had neither produced the original Will, nor a copy thereof produced on the record nor had even examined any of the attesting witnesses or the scribe. Consequently, the appellate Court held that the appellants had not been able to prove the Will and decreed the suit, though on a different ground. Learned counsel has not been able to show how the finding could have been otherwise once neither the Will, nor a Copy nor attesting witness or scribe were produced before the Court.

In the circumstance, no fault can be found with the judgments of the Courts below. Both the appeals stand dismissed.

Since the main cases have been decided, the pending C.M, if any, also stand disposed of.

14.2.2018
anuradha

(AJAY TEWARI)
JUDGE

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