

RSA No.4662 of 2017 (O&M)

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

RSA No.4662 of 2017 (O&M)

Date of decision:22.11.2018

Manoj Kumar

... Appellant

Vs.

Subhash

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anil Kumar Garg, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.12321-C of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 30 days in filing the appeal, is condoned.

C.M stands allowed.

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The appellant-plaintiff has not been successful in seeking declaration to the extent of ½ share in the suit property as per the consent decree dated 31.07.1993 executed by Phoola in favour of the plaintiff and defendant.

The cause of action arose to institute the suit only when Phoola executed a transfer deed on 09.11.2009 where more share was transferred to defendant i.e. 4 kanals, while less share to the effect of 11 kanals 14 marlas only was given to the plaintiff, which could not have been done in view of

the consent decree.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, consent decree was not effected and entered in the revenue record. The transfer deed is also a registered document which is subsequent and carried a presumption of truth. It was the wish and whim of Phoola which cannot be challenged by the plaintiff until and unless there is very strong reason to discard the same. The difference is only of 4 kanals.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 22, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No