

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

RSA No.909 of 2018 (O&M)

Date of decision : 08.02.2018

Ranjit Kaur and others

...Appellants

Versus

Gurnam Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Poonam Verma, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM No.2212-C of 2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 50 days in filing the appeal is condoned.

Application is allowed.

Main Case

The plaintiff-appellants are in the Regular Second Appeal against the judgment passed by the learned First Appellate Court.

The plaintiffs had filed a suit for permanent prohibitory injunction restraining the defendant from interfering in their possession. Learned trial Court after finding that the plaintiffs are in possession, decreed the suit in respect of land measuring 1/8th share out of the land measuring 12 bighas and 14 biswas.

The defendant had filed the appeal before the First Appellate

Court.

Learned First Appellate Court has upheld the finding of the trial Court with regard to the entitlement of the injunction in favour of the plaintiffs. However, the Court has only observed that this decree of permanent injunction will not have any effect on the action to be taken by the appellant in due course of law. The relevant observations made by the First Appellate Court are extracted as under:-

“Therefore, the aforesaid judgments and decree granting permanent injunction in favour of the plaintiffs and against the defendant will not have any effect on the action taken by the appellant/defendant in due course of law. With this observation, the judgment and decree dated 15.12.2016 passed by the Court of learned Civil Judge (Junior Division), Malerkotla is accordingly modified and the appeal preferred by the appellant/defendant is accordingly accepted, with costs. Decree sheet be prepared. Lower Court file be returned with copy of judgment. File be consigned to the record room.”

Learned counsel for the appellants has submitted that the appeal filed by the defendant-appellant has been accepted. She submits that the judgment passed by the first Appellate Court is being mis-interpreted.

I have heard the learned counsel for the appellants at length and with her help, have gone through the judgments passed by both the Courts below.

It is not in dispute that the injunction granted by the trial Court, has been upheld by the First Appellate Court. Learned First Appellate Court has only granted the liberty to the defendants to take action in accordance

with law. Such observations does not amount to reversal of the judgment passed by the First Appellate Court.

In these circumstances, there is no ground to interfere.

Regular Second Appeal is dismissed.

08.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No