

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3229-2019 (O&M)
DATE OF DECISION: 08.07.2019

DISTRICT FOREST OFFICER, KAITHAL
AND OTHERS

...APPELLANTS..

VERSUS

RAJ KUMAR

...RESPONDENT..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ashwani Kumar Saini, DAG, Haryana,
for the appellants.

RAMENDRA JAIN, J. (ORAL)

CM-8657-C-2019

Prayer in this application under Section 5 of Limitation Act
has been made for condonation of delay of 78 days in filing the appeal.

Heard.

It is well-settled proposition of law that each day's delay has
to be explained in a mathematical manner. Plea taken by the applicant-
State of Haryana, for condonation of delay is being taken in routine,
since, last 2-3 decades almost in every case. Much water has already
flown. Now the time has come to deprecate and reject such type of
frivolous pleas taken in routine to abuse the process of law. It is
needless to mention here that every State Government or its
functionaries are best litigant in the country. More than 50% of the
litigation in the Courts of this country is being filed on account of lapse

or negligence of State machinery. No cogent reason or plausible explanation has been furnished by the applicant-State for condonation of delay in filing the accompanying appeal. Therefore, the instant application is dismissed.

The case is dealt with on merit also.

Briefly, appellants-defendants wanted to cut some eucalyptus trees standing on a particular piece of land, which according to respondent-plaintiff were grown on his land. Therefore, to restrain the appellants-defendant from cutting trees from his land, he filed a suit for permanent injunction against them.

The trial court, after holding trial, decreed the suit of the respondent-plaintiff vide judgment and decree dated 19.01.2017.

Being aggrieved, the appellants-defendant approached the Ist Appellate Court, but remained unsuccessful, as their appeal too was dismissed vide judgment and decree dated 10.01.2019.

Learned counsel contends that both the courts below have failed to appreciate that demarcation report, which has been made the basis of decretal of the suit of the respondent-plaintiff, was prepared in the absence of the appellants-defendant. Therefore, the same was liable to be rejected. Both the courts below have also failed to appreciate that the eucalyptus trees were standing on the banks of canal, which was owned and possessed by the appellants. Both the courts below have illegally ignored documents Ex.DW/B and

Ex.DW/C, showing plantation of eucalyptus trees on the land owned by

the appellants and irrigation department.

Having given thoughtful consideration to the submissions made by learned counsel for the appellants, this Court finds instant appeal completely devoid of any merit for the reasons to follow:-

1. No question of law much less substantial has been raised in the instant appeal. Therefore, the same is not maintainable.

2. Both the courts have rightly relied upon the demarcation report dated 29.05.2012 (Ex.PW2/B) prepared by revenue official of the State. The appellants never made any effort for re-demarcation of disputed land during trial. Therefore, in the absence of any contrary evidence to the aforesaid demarcation report coupled with Jamabandi Ex. PA, PB, PW1/B and PW2/D in favour of the respondent-plaintiff, both the courts had no other option, but, to rely upon the demarcation report Ex.PW2/B. It has been observed by both the courts below that despite notice none of the official of the appellants-defendant or they themselves came present on the spot at the time of demarcation, despite service of notice upon them.

I have gone through the judgments of both the courts below and find no scope of interference in the same. Hence, the instant appeal is dismissed.

08.07.2019

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**(RAMENDRA JAIN)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**