

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.5249 of 2016 (O&M)

Date of Decision: February 05, 2019

Rachhpal Singh

...Appellant

Versus

Surain Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Amandeep Singh Mainse, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.13621-C of 2016

For the reasons mentioned in the application, which is supported by an affidavit, delay of 335 days in re-filing the appeal is condoned.

CM stands disposed of.

RSA No.5249 of 2016

Appellant-defendant has not been successful in the trial Court and as well as in the Lower Appellate Court against the decretal of the suit preferred by the respondent-plaintiff for possession of the suit property.

It was alleged that Bhajan Kaur, wife of the plaintiff, was owner in possession of the suit land. She died issueless on 14.04.1987, but the defendants had no right, title and interest in the property and they were trespassers.

In support of the aforementioned pleadings, plaintiff brought on

record jamabandi Ex.P1.

The defendants asserted that Bhajan Kaur was their maternal aunt (Bua) and out of love and affection, executed a Will dated 20.02.1987.

Mr. Amandeep Singh Mainse, learned counsel for the appellant-defendant submitted that no doubt the Will had not been proved on record, but the plaintiff failed to prove whether he was only surviving legal heir of Bhajan Kaur.

I am afraid, the aforementioned argument is not sustainable, for, the onus to retain the possession by propounding the Will heavily relied upon the defendants, which remained undischarged as no witness has been examined. The courts below decreed the suit finding that Bhajan Kaur had died and was owner of the land. The factum of the plaintiff being husband was also not denied.

For the reasons aforementioned, I do not find any illegality or perversity in the concurrent findings of fact, which are based on appreciation of oral and documentary evidence. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

February 05, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No