

RSA-4123-2017 (O&M)

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

RSA-4123-2017 (O&M)

Date of decision : 29.01.2019

Saudagar Singh

... Appellant

Versus

Balwinder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gurbir Singh Pannu, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The short point involved in the regular second appeal is whether a person who has been found to be an encroacher as per the demarcation report dated 31.05.2006, which has gone un-rebutted, can be permitted to take technical objection regarding non-impleadment of Gram Panchayat or having a share in the property, in a suit filed by the respondent-plaintiff for mandatory injunction qua removal of the encroachment. The answer is 'No'.

The appeal is also accompanied by an application seeking condonation of delay of 1097 days on the premise that the case file was entrusted to a lawyer. The appellant and his wife were not keeping good health and were under regular treatment. He had no knowledge about the fact that his appeal was not filed by the earlier counsel, in fact, it was intimated that the appeal was pending before the Court. Thereafter, he verified through another counsel and came to know that no such appeal is filed. In this process, a delay of 1097 days has occurred. The contents of

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the application is bereft of the following particulars:-

1. Name of the earlier counsel
2. date of handing over of brief.
3. Medical record.

A person cannot be permitted to indulge into blame game in not pursuing the remedy, in accordance with law, in time.

No ground is made out for interference, much less, no substantial question of law arises for determination. Accordingly, the present regular second appeal as well as the application seeking condonation of 1097 days' delay in filing are dismissed.

29.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**