

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.5829 of 2017 (O&M)
Date of Decision: March 06, 2019

Mamman Khan

...Appellant

Versus

Arvind Singh & Another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Ashish Gupta, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

The present Regular Second Appeal, at the instance of the appellant-plaintiff, is directed against the judgments and decrees of the courts below, whereby he has not been successful in claiming declaration, mandatory injunction and permanent injunction, accompanied by an application seeking condonation of delay of 270 days on the premise that he is a poor rustic villager and was advised not to appear on each and every date of hearing in the first appeal. When contacted the counsel, limitation was expired.

On merits, it was asserted that Joginder Singh, father of defendant No.1, had entered into a lease agreement with the plaintiff, who was inducted as lessee, but on his demise, two legal heirs executed fresh deed, but Arvind Singh did not execute but created a fresh lease deed dated 22.08.2007 in favour of defendant No.2 and, therefore, permanent injunction was sought. Earlier lease deed in favour of the plaintiff was

dated 07.02.2006.

Defendant No.1 opposed the suit and stated that the suit was not maintainable as plaintiff insisted for lease of 2/3rd share in 4 kanals 13 marlas.

Defendant No.2 also filed a separate written statement and said that he has been inducted as a lessee in accordance with the release deed executed by defendant No.1.

The trial court, on the basis of the evidence brought on record, ignored the release deed dated 07.02.2006 being unregistered document. However, in appeal, the Lower Appellate Court though set-aside the findings, but ultimately upheld the decree by dismissing the suit.

Mr. Ashish Gupta, learned counsel for the appellant-plaintiff submitted that as per the provisions of Section 108(j) of the Transfer of Property Act (for short, the Act) even if Joginder Singh was a lessee, he had a right to sub-lease.

I am afraid, the aforementioned argument is not sustainable as Joginder Singh, in terms of the lease deed executed in favour of the plaintiff, did not authorise him to induct the sub lessee. Provisions of Section 108(j) of the Act do not apply to the States of Punjab and Haryana except the provisions as per the notification. In such circumstances, the status of appellant-plaintiff was nothing and permanent injunction has rightly been rejected.

For the reasons mentioned above, I do not find any illegality or perversity in the judgments and decrees of the courts. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed on merit and as well as on delay

Regular Second Appeal No.5829 of 2017 (O&M) { 3 }

as the reason given for delay is wholly unreasonable.

March 06, 2019
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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No