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

**RSA-5879-2017 (O&M)
Date of decision : 28.05.2019**

Ajmer Singh

... Appellant

Versus

Jaggar Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Puneet Sharma, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration of land measuring 2 bighas 8 biswas comprised in Khata No.1520/3343, Khasra No.2094 min/2-8, being owner in possession by virtue of the sale deed dated 08.08.1962, purchased from Legal Representatives of Dalip Singh and Gajju and for possession of one room consisting of three khans with mandatory injunction for making the payment of compensation, has been dismissed by the trial Court and affirmed in appeal.

The case set up by the plaintiff is that by virtue of the sale deed, he had purchased the property from Legal Representatives of Dalip Singh and Gajju as Harditta Singh was the owner. On demise of Harditta Singh, mutation of inheritance bearing No.5896 was sanctioned in favour of Gajju Singh and Dalip Singh sons of Saudha Singh. Dalip Singh died and left

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behind widow, son and daughter, namely, Sham Kaur, Sukhdev Singh and Mohinder Kaur, respectively. Gajju Singh exchanged the land with Kishori Lal and the aforementioned exchange was reflected in mutation bearing No.6753.

The defendants opposed the suit by raising preliminary objections qua maintainability of the suit, concealment of true facts, limitation and on merits, denied the ownership of the plaintiff.

In order to prove the case, the plaintiff himself self as PW1 and brought on record Ex.P1 to Ex.P11, whereas the defendants examined two witnesses and brought on record Ex.D1 to Ex.D10.

Mr. Puneet Sharma, learned counsel appearing on behalf of the appellant submitted that sale deed dated 08.08.1962 reflected the khasra number as 2094. There is misreading and misdirection of the Courts below. The identity of the property was not disputed as the mutation of exchange has also been proved.

I am afraid the aforementioned argument is not sustainable as the claim in the suit was with regard to Khasra No.2094 min, having an area measuring 2 bighas 8 biswas, whereas the sale deed is of Khasra No.2094. No evidence has been placed on record whether there is any bifurcation or bifurcation had fallen to the share of the plaintiff or otherwise. No steps have been taken to seek the amendment of the plaint.

Keeping in view the aforementioned facts, I do not subscribe to the submissions of Mr. Puneet Sharma, to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground is made out for

interference.

The application seeking condonation of delay in re-filing the appeal is bereft of any reasonable or justifiable explanation.

Resultantly, the second appeal is dismissed on merits as well as on the ground of limitation.

28.05.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**