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

**RSA-6114-2018 (O&M)
Date of Decision: 23.07.2019**

Birji (Now Deceased) through his LR's

..... Appellant

Versus

Rajender and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. R.S. Sihota, Senior Advocate with
Mr. B.R. Rana, Advocate,
for the appellant.

SUDIP AHLUWALIA, J. (ORAL)
CM-17038-C-2018

For the reasons mentioned in the application, the delay of 42 days in filing the present appeal is, hereby, condoned.

Application stands disposed off.

CM-17039-C-2018

Applicant-appellant are permitted to place on record a copy of the judgment dated 13.12.1997 (Annexure A-1).

Application stands disposed off.

RSA-6114-2018 (O&M)

The suit filed by the appellant (since deceased) for declaration of his being owner in possession of the disputed land by virtue of having acquired occupancy rights under Sections 5 and 8 of the Punjab Tenancy Act read with Sections 3 and 8 of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953, was dismissed by the Trial Court and the appeal preferred by him was similarly dismissed by the Ld. Additional

District Judge, Palwal, after holding that his suit was barred by *res judicata* inasmuch as their previous Civil Suit No.177 of 1995, had been decided earlier on 14.02.2005 (Exhibit P-11), and the appeal preferred against such judgment of dismissal, was also dismissed by the Ld. Additional District Judge, Faridabad, vide the detailed judgment dated 03.12.2005 (Exhibit P-13).

2. This Court has perused the aforesaid judgment (Exhibit P-13) maintained in the Lower Court Record, from which, it is seen that the previous appeal of the appellant, arising out of dismissal of their earlier suit for declaration, against Mam Chand-Predecessor in interest of the present respondents, was dismissed after specifically holding that “defendants are owners in possession of the suit land, on the basis of the judgment and decree dated 14.02.2005 passed by the Civil Court”. Dismissal of the aforesaid appeal had obtained finality. As such, there is clearly no impropriety whatsoever in the decision of the Ld. Lower Appellate Court in the present case in holding that the subsequent suit filed by the appellants for the same relief against the same parties was barred by *res judicata*.

3. No merits. Dismissed.

4. Lower Court Records be returned.

23.07.2019*Bhumika***(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No