

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

**RSA No.92 of 2017 (O&M)
Date of Decision.01.02.2019**

Municipal Council, Kotfatta and another

...Appellants

Vs

Gaura Devi and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vinish Singla, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

C.M. No.174-C of 2017

For the reasons stated in the application, delay of 19 days
in re-filing of the appeal is condoned.

Application is allowed.

RSA No.92 of 2017 (O&M)

The present regular second appeal is directed against the
concurrent finding of fact whereby simplicitor suit of the
respondents-plaintiffs for injunction seeking restraint against the
forcible interference and dispossession, has been decreed.

Mr. Vinish Singla, learned counsel appearing on behalf
of the appellants submitted that though there is delay of 248 days in
filing of the appeal which was not intentional but owing to the
circumstances explained in the application. The certified copy of the
judgment and decree dated 07.10.2015 of the lower Appellate Court
was received on 15.10.2015. On 04.04.2016, letter was moved before
the Directorate, Local Bodies, Punjab and the appeal was filed on

18.05.2016.

On merit, he submitted that the plaintiffs were in unauthorized occupation of the verandah and therefore, injunction against unauthorized occupants, in such circumstances, could not have been granted, though the plaintiff attempted to place on record Ex.P2 & P3, rent receipts issued by the defendants.

I am afraid aforementioned argument is not sustainable, for, once the plaintiff has been able to prove possession, defendants cannot forcibly dispossess and interfere into his peaceful possession except in due course of law, as the possession is long and settled since 1996. The remedy lied elsewhere. Even no date of sending legal opinion or its receipt has been mentioned.

In view of aforementioned situation, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal along with application for condonation of delay is dismissed.

(AMIT RAWAL)
JUDGE

February 01, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No