

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

Sr. No.106

**CM Nos.1111 to 1114-C-2022 in/and
Regular Second Appeal No.428 of 2022
Date of Decision : February 28, 2022**

Surender Pal Singh

...Appellant

Versus

Siri Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sanjiv Kumar Aggarwal, Advocate, with
Mr. Ojas Bansal, Advocate and
Mr. Tejas Bansal, Advocate, for the appellant.

SUDHIR MITTAL, J. (ORAL)

CM-1111-C-2022

This application has been filed for condonation of delay of 57 days in filing the appeal.

The application is allowed and delay of 57 days in filing the appeal is condoned.

RSA-428-2022 (O&M)

The respondents No.1 & 2 had filed a suit for injunction restraining the defendant from obstructing their passage into a public street. The suit has been decreed and appeal has been dismissed.

It may be noted that the appellant before this Court was not a party defendant. His brother Harender Pal Singh was the sole defendant. Appeals were filed by both the brothers and the appeal of the appellant has been dismissed as being not maintainable since prior leave of the Court to file the appeal was not taken.

Learned counsel for the appellant has relied upon *Hardevinder Singh vs. Paramjit Singh and others, 2013(2) Punjab Law Journal 6* to submit that even a third party can file an appeal with the prior leave of the Court. A copy of this judgment has not been supplied to this Court.

Without reading the judgment, I am not in agreement with learned counsel for the appellant that a third party appeal is maintainable under the Code of Civil Procedure. Be that as it may, the judgment relied upon by learned counsel for the appellant also states that an appeal can be filed by a third party only after grant of leave by the concerned Court. In this case admittedly, no leave was sought or granted and thus, the appeal filed by the appellant before the First Appellate Court was not maintainable.

For the aforementioned reasons, the appeal has no merit and is dismissed.

CM Nos.1112 to 1114-C-2022

Since the main case stands dismissed, the present applications also stand disposed of.

February 28, 2022

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No