

RSA-1439-2023 (O&M)

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

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RSA-1439-2023 (O&M)

Decided on : 13.10.2023

Satnam Ram and others

... Appellant(s)

Versus

Baldev Raj

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. P.S. Jammu, Advocate
for the appellant(s).

SANJAY VASHISTH, J. (Oral)

CM-11640-C-2023

I. This is an application filed under Section 151 CPC, for seeking pre-ponement of the date of hearing in the main appeal from 27.02.2024 to an early date.

II. After hearing learned counsel for the applicant-appellants and perusing the averments made in the application, which is duly supported by an affidavit, prayer made in the application is allowed. Consequently, date of hearing in the main appeal i.e. RSA-1439-2023, is advanced from 27.02.2024 to today itself.

CM stands disposed of.

CM-5319-C-2023

For the reasons set out in the application, same is allowed. Consequently, the delay of 18 days in re-filing the accompanying appeal is condoned.

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1. Suit for possession filed by the plaintiff (respondent herein)

against the defendants (appellants herein), has been decreed by both the Courts below. Thus, defendants are before this Court by way of present Regular Second Appeal (RSA), against the concurrent findings of facts recorded by the Courts below.

2. Plaintiff filed a suit for possession on the basis of sale-deed No.1099, dated 14.03.1989 (Mark 'A'), and submits that the area in question had been purchased by the plaintiff from defendant No.1, his brother Bhagwan Dass and their father Biru Ram. For proving the registered sale-deed, plaintiff produced the witnesses of attestation and also the scribe of the sale-deed. There is concurrent finding that during cross-examination, nothing adverse to plaintiff's case was brought out from the mouth of both these witnesses by the defendants.

Thus, Trial Court has held that on the basis of proving of the registered sale-deed in favour of the plaintiff, suit filed by the plaintiff is worth for its decretal.

3. It is also noticed by this Court that the learned Lower Appellate Court has recorded its finding that defendants right over the property even cannot be protected under the plea of adverse possession, because, no such pleading has ever been raised by the defendants in their written statement.

As far as, limitation for filing of the suit is concerned, there was an objection taken by the defendants, however, learned Lower Appellate Court has held that the suit has been filed within its limitation period of 12 years, as per the provision of law under Article 65 of the Limitation Act, 1963. Even otherwise also, now it is settled proposition of law that for the purpose of seeking possession on the basis of title over it, the law of limitation would not apply.

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4. Taking note of the fact findings recorded by both the learned Courts below, I do not find any substantial reason to interfere with the same.

Besides, no question of law, much less, any substantial question of law arises for consideration in the present appeal for interference in the impugned judgments & decree passed by the Courts below.

Thus, the instant appeal being devoid of merits, stands **dismissed**. Accordingly, the judgments & decree passed by both the Courts below are affirmed.

Pending misc. application(s), if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

October 13, 2023

J.Ram

Whether speaking/reasoned: *Yes/~~No~~*

Whether Reportable: *~~Yes~~/No*