

CM-774-C-2023 in/&
RSA-103-2021 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CM-774-C-2023 in/&
RSA-103-2021 (O&M)
Date of Decision :22.03.2023

Samadh Baba Bhagwan Gir

...Appellant

Versus

Baba Mahadev Gir Chela Baba Itwar Gir
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Kamal Kumar Yogi, Advocate for the appellant.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-774-C-2023

Present application has been filed for recalling the order dated 11.01.2023 passed by this Court by which, the main appeal was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 11.01.2023 passed by this Court is recalled and the main appeal is ordered to be restored to its original number and status and is taken up for hearing today itself.

RSA-103-2021 (O&M)

Learned counsel for the appellant argues that though, all the facts and evidence have been taken into consideration but the said evidence needs to be re-appreciated so as to arrive at a different finding than that arrived by the Courts below.

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It is a settled principle of law that in the regular second appeal judicial intervention is appropriate only when perversity in the findings is proved qua the facts and evidence. In the present case, no perversity in the findings recorded by the Courts below has been pointed by the learned counsel for the appellant for the consideration of this Court so as to require any interference by this Court.

Further, in the regular second appeal, the Court cannot re-appreciate the fact/evidence on record so as to arrive at a different finding than the one arrived by the Courts below. As stated hereinbefore, in regular second appeal interference by the Court can be done in case findings recorded are perverse hence, as no perversity has been pointed out by the learned counsel for the appellant in the findings recorded by the Courts below qua the evidence on record and the re-appreciation of the evidence on record to the liking of the appellant is not permissible, no interference is called for by this Court in this regular second appeal and the same is accordingly dismissed.

March 22, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No