

[323] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1257 of 1991
Date of Decision :16.02.2023

Saudagar Singh ...Appellant

versus

Makhan SinghRespondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Vidul Kapoor, Advocate for the appellant.

B.S. Walia, J. (Oral)

[1] Challenge in the instant Regular Second Appeal is by the defendant against concurrent findings recorded by the Courts below, decreeing the suit for possession as filed by the respondent-plaintiff.

[2] A perusal of the judgment and decree dated 24.11.1988 passed by the learned Addl. Senior Sub Judge, Fazilka, reveals that the suit of the respondent-plaintiff was decreed with costs for possession as owner of the house in dispute situated at Village Chak Kala Tibba as fully described in the head note of the plaint, while directing the plaintiff to pay deficient Court fee within two months failing which no decree would be deemed to have been passed in his favour.

[3] Civil Appeal No.12 of 1988 filed by the appellant-defendant before the learned Addl. District Judge, Ferozepur, was dismissed with costs vide judgment and decree dated 19.04.1991.

[4] The matter was admitted on 07.06.1991, while ordering *status quo* regarding possession during the pendency of the appeal. Thereafter, the matter came up for hearing the first time on 01.02.2023.

On said date, learned counsel appearing on behalf of the appellant

[5] Today, learned counsel contends that communication addressed to the appellant vide registered post on 01.02.2023 and said registered postal article having been received by the appellant on 07.02.2023 as is evident from the consignment details as downloaded from the Post Office site, no instructions have been received from the appellant. Copy of letter dated 01.02.2023 addressed by counsel to the appellant, copy of registered postal receipt dated 02.02.2023, as well as track consignment details as downloaded from the internet from the Post Office site, evidencing delivery of postal article to the addressee on 07.02.2023, are taken on record.

[6] In view of the position noted above, no useful purpose would be served by issuing notice to the appellant. The appeal is accordingly *dismissed for non prosecution*, while granting liberty to the appellant to move an application for restoration of the appeal dismissed for non prosecution in the eventuality of cause surviving.

(B.S. Walia)
Judge

16.02.2023
'Rajneesh'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No