

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

RSA No. 2150 of 2022 (O&M)

Date of decision: 19.01.2023

Shish Pal @ Shishu Ram and another

..... Appellants.

Versus

Ram Sarup and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Ravi Dutt Sharma, Advocate, for the appellants.

ANUPINDER SINGH GREWAL, J. (ORAL)

CM No.7338-C of 2022

This application is for condonation of delay of 299 days in re-filing the appeal.

Heard. For the reasons stated in the application, the same is allowed and the delay of 299 days in re-filing the appeal is condoned.

RSA No. 2150 of 2022 (O&M)

The appellants have challenged the judgments and decrees of the Courts below whereby the suit preferred by the respondents/plaintiffs has been partly decreed.

Learned counsel for the appellants submits that the suit preferred by the respondents/plaintiffs for permanent injunction restraining the appellants/defendants from merging the land in dispute has been erroneously decreed even though the suit land is in the possession of the appellants/

defendants and the watercourse, which had already been dismantled long time back, is not in operation. He also submits that the suit is with regard to watercourse and, therefore, the jurisdiction of the Civil Court would be barred in terms of Section 25 of the Haryana Canal and Drainage Act, 1974.

Heard.

The respondents/plaintiffs had filed a suit for permanent injunction restraining the appellants/defendants from merging the land in dispute with their land and to get the remaining vacant land for the purpose of making 'pucca' watercourse. The suit had been partly decreed and the appeal preferred by the appellants/defendants has also been dismissed. The Courts have recorded concurrent finding of facts by relying upon the entry in the jamabandi for the year 2011-12 wherein the land in dispute has been shown as 'gair mumkin khal' (watercourse). The suit land comprises Khewat No.463, Khatoni No.836, Rect. No.34 Killa No.11/2/1 (0-10). The jamabandi for the year 2011-12 had been appended as Ex.P1. The suit land comprises a watercourse in terms of the revenue record and, therefore, the appellants/defendants are not entitled to encroach upon the same in any manner whatsoever. I do not find any merit in the contention of learned counsel for the appellants/defendants that the jurisdiction of the Civil Court would be barred. The injunction has been sought by the respondents/plaintiffs restraining the appellants/defendants from encroaching upon the watercourse. I draw support from a judgment of this Court in the case of **Ram Sarup versus Harphul and others**, 1974 PLJ 258, wherein it was held that as the suit therein was filed to prevent a threat of demolition of watercourse, the jurisdiction of the Civil Court is not barred to enforce preventive remedy.

Consequently, this appeal being bereft of any merit stands dismissed.

Pending application(s), if any, shall also stand disposed of.

19.01.2023
Ramesh

(ANUPINDER SINGH GREWAL)
JUDGE

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