

2023:PHHC:105838

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

RSA-2670-2023 (O&M)
Date of decision: 11.08.2023

Lakhwinder Singh

..Appellant

Versus

Darshan Singh (deceased) through his LR's and others
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Mansur Ali and
Mr. Raj Sumer Singh, Advocates for the appellant

ANIL KSHETARPAL, J (Oral)

CM-9038-C-2023

1. After hearing the learned counsel representing the applicant and for the reasons stated in the application, delay of 33 days in re-filing the present appeal is condoned.
2. CM stands allowed.

CM-9040-C-2023

3. After hearing the learned counsel representing the applicant and for the reasons stated in the application, delay of 1173 days in filing the present appeal is condoned.
4. CM stands allowed.

Main case

5. The correctness of the concurrent findings of fact is assailed by the defendant in this Regular Second Appeal. The dispute is with regard to a passage. Certain landowners jointly developed a colony while reserving a passage to provide ingress and egress to the plot holders. The plaintiffs are purchasers of the plot from one developers

whereas defendant is a purchaser of plot from another developer. In the various sale deeds executed in favour of the plaintiffs, the street in question has been shown. The defendant admits that it is a passage, however, he claims that it is his exclusive passage. The defendant failed to prove that the aforesaid piece of land is his exclusive passage. Thus, both the courts decreed the suit.

6. Heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook.

7. Learned counsel representing the appellant contends that one of the developers has sold a piece of land to the appellant who has purchased the same by paying a huge consideration. He submits that the land sold to the defendant cannot be permitted to be used as a passage by the plaintiff.

8. On a Court question, he admits that certain individuals jointly developed the colony while using their respective pieces of land. In such circumstances, the passage carved out jointly by them stands dedicated to the public. If the appellant has been cheated by his vendor, then his remedy lies against his vendor. However, the rights of the various plaintiffs, who have purchased the property in the shape of plots cannot be adversely affected. Hence, no ground to interfere is made out.

9. Dismissed.

10. All the pending miscellaneous applications, if any, are also disposed of.

11.08.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE