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

RSA-3101-2019(O&M)
Date of decision:-21.01.2025

Santra alias Geeta

...Appellant

Versus

Kamal and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr. Sandeep Punchhi, Advocate and
Mr. Abhay Singh, Advocate
for the applicant/appellant.

SUVIR SEHGAL, J.(ORAL)

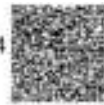
CM-8301-C-2019

1. For the reasons given in the application, it is allowed.
2. Delay of 20 days in refiling of the appeal is condoned.

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3. Appellant – plaintiff is in second appeal before this Court assailing the concurrent finding recorded by both the Courts below, whereby suit for permanent injunction restraining the defendants from interfering in her peaceful possession over the residential plot has been dismissed. Alongwith the appeal, appellant has filed an application for condonation of delay of 364 days in its filing.

4. Pleaded case of the plaintiff is that her mother, Smt. Kalmo Devi, was in possession of three plots in New Grain Market, Regar Basti, Sirsa including the disputed plot. By an agreement dated 06.06.2004, her mother, handed over the possession of the plot to the



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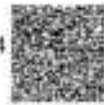
plaintiff. This agreement bears the signatures of the defendants, who are her brothers. Defendants received Rs.1,00,000/- each being their share in the suit property and they separately executed affidavits dated 11.07.2019 giving no objection to the transfer of the possession of the suit property in favour of the plaintiff. Alleging that defendants are threatening to dispossess her, plaintiff filed the above mentioned suit.

5. Upon being served, defendants filed a written statement raising various preliminary objections and contested the suit on merits. Agreement has been denied and a specific stand has been taken that defendants are in possession. Defendants averred that they did not receive any amount nor affidavits were executed. Issues were framed on the basis of the pleadings of the parties. After trial, by judgment and decree dated 03.05.2017, suit was dismissed. Plaintiff remained unsuccessful in appeal, which was dismissed by the learned Additional District Judge, Sirsa by judgment dated 17.11.2017, resulting in the institution of the present appeal.

6. While referring to the affidavits Ex.P1 and Ex.P2, counsel for the appellant has argued that the respondents had voluntarily executed affidavits which demonstrate that possession of the suit plot was given to the appellant and respondents received amount of Rs.1,00,000/- each in lieu of their share.

7. I have heard counsel for the appellant and considered his submissions.

8. The plank of claim raised by the appellant is agreement dated 06.06.2004. However, the said agreement has not seen the light of



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the day. Appellant has failed to produce the agreement on the record. As such, the very foundation of the suit is based on a document, which has not been proved. Reliance on affidavits Ex.P1 and Ex.P2 would not advance the case of the appellant because respondents have categorically denied their signatures on both the affidavits. Affidavits have allegedly been signed in presence of two witnesses but the witnesses have not been examined. Appellant has not produced a forensic expert nor has she moved any application for the comparison of the signatures on the affidavits with the admitted signatures of the respondents. Handing of Rs.1,00,000/- each to the respondents has also not been established. It is not borne from the record as to whether Smt. Kalmo Devi is dead or alive. In any case, she has not stepped into the witness-box to prove the agreement. This Court, therefore, is of the view that there is no error in the judgments and decrees passed by the Courts below, which are affirmed.

9. Appeal being devoid of merit is dismissed with no order as to costs.

10. All the applications, including the application seeking condonation of delay in filing of the appeal, are disposed off as the main case has been decided.

(SUVIR SEHGAL)
JUDGE

21.01.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No