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

RSA-2466-2022 (O&M)

Date of Decision : 03.03.2025

Jaswant Singh & Ors

... Appellant(s)

Versus

Hameli Devi & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Singh, Advocate for the appellants.

ALKA SARIN, J. (Oral)

CM-8477-C-2022

1. This is an application for condonation of delay of 383 days in refiling the appeal.
2. For the reasons stated in the application, delay of 383 days in refiling the appeal is condoned. CM stands disposed off.

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3. The present appeal has been filed by the plaintiff-appellants challenging the judgment and decree dated 06.02.2017 passed by the Trial Court and the judgment and decree dated 13.03.2019 passed by the First Appellate Court.
4. Brief facts relevant to the present *lis* are that the plaintiff-appellants herein filed the present suit seeking relief of mandatory injunction directing defendant-respondent Nos.2 to 4 to sanction mutation of agricultural land measuring 7 kanals 10 marlas in favour of the plaintiff-appellants in equal shares. It was averred in the plaint that a civil suit no.363 of 2011 was filed

by the plaintiff-appellants against the defendant-respondent No.1 who was a private defendant-respondent qua land measuring 7 kanals 10 marlas, which was decreed in favour of the plaintiff-appellants on 19.05.2012 on the basis of a compromise entered between the parties. After obtaining a certified copy of the order the same was submitted in the office of defendant-respondent No.4 alongwith an application to sanction the mutation in favour of the plaintiff-appellants in equal shares in compliance of the order dated 19.05.2012 but the same was not entered. Hence, the present suit.

5. The defendant-respondent No.1 was proceeded against *ex-parte*.

6. The defendant-respondent Nos.2 to 4 filed their joint written statement raising various preliminary objections. On merits, it was stated that the defendant-respondent Nos.2 to 4 who are the official respondents were not the parties in the earlier suit bearing No.363 of 2011 filed by the plaintiff-appellants. It was further averred that the civil suit was decreed vide the judgment and decree dated 19.05.2012 to the extent of possessory rights only over the land measuring 7 kanals 10 marlas and the ownership with regard to the land vested in *Shamlat Deh* and that the defendant-respondent No.1 was merely in possession as cultivator.

7. No replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether plaintiff are entitled to the relief of mandatory injunction directing defendants no.2 to 4 to enter and sanction the mutation of agriculture land 7K-10M, as prayed for ? OPP
2. Whether plaintiffs have no locus-standi and cause of

action to file and maintain the present suit ? OPD

3. Whether plaintiffs have concealed the true and material facts from the court ? OPD

4. Whether suit of plaintiffs is bad for mis-joinder and nonjoinder of necessary parties ? OPD

5. Whether the suit of the plaintiffs is not properly valued for the purposes of court fee and jurisdiction ? OPD

6. Relief.

8. The Trial Court vide judgment and decree dated 06.02.2017 dismissed the suit. Aggrieved by the same, an appeal was preferred by the plaintiff-appellants which appeal was also dismissed by the First Appellate Court vide the judgment and decree dated 13.03.2019. Hence, the present Regular Second Appeal.

9. Learned counsel for the plaintiff-appellants would contend that both the Courts have erred in dismissing the suit. It is urged that since the earlier suit was decided in favour of the plaintiff-appellants, a mutation ought to have been sanctioned in their favour on the basis of the said civil court decree.

10. I have heard the learned counsel for the plaintiff-appellants.

11. In the present case the earlier suit filed by the plaintiff-appellants was only against defendant-respondent No.1 and was regarding relief of possessory rights of the defendant being transferred in favour of the plaintiff-appellants as per a family settlement. The official defendant-respondent Nos.2 to 4 were not parties to the said suit. Ex.P1, which was the compromise, deals only with the possession which was transferred from defendant-respondent No.1 in favour of the plaintiff-appellants. Thereafter, Ex.P2 was the judgment

and decree dated 19.05.2012 based on the compromise decreeing the suit only to the extent of possessory rights in the land measuring 7 kanals 10 marlas. It was noticed in the judgment that ownership regarding the land vested in *Shamlet Deh* and defendant-respondent No.1 was merely in possession as cultivator. The learned counsel for the plaintiff-appellants has not been able to show any law that on the basis of possession a mutation can be entered in favour of the plaintiff-appellants. In any case the land has been held to be in the ownership of *Shamlet Deh* and, hence, there would be no question of mutation being entered in favour of the plaintiff-appellants.

12. In view of the above, no fault can be found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

03.03.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO