



RSA-2215-2022(O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

RSA-2215-2022(O&M)

Date of Decision: 15.07.2026

Joginder Singh and Ors.

....Appellants

Versus

Dalip Singh and Ors.

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. S.M.Sharma, Advocate
for the appellants.

AMARJOT BHATTI, J.**CM-7676-C-2022**

This is an application under Section 5 of Limitation Act for condonation of delay of 45 days in refiling the instant appeal.

In view of the averments made in the application, in the light of the settled position that a party should not be denied access to justice on hyper technical grounds and in the interest of justice, taking a lenient view, delay of 45 days in refiling the instant appeal is condoned.

Application stands disposed of accordingly.

CM-4622-C-2026

This is an application under Section 151 CPC for placing on record copy of order dated 07.06.2010, passed in R.R. No.223 of 2006 (Annexure A-1) titled “Dalip Singh and others vs. Bahadur Singh (deceased through LRs) and others” passed by Commissioner, Jalandhar, Division Jalandhar relating to the partition proceedings of the land.

**RSA-2215-2022(O&M)**

-2-

For the reasons stated in the application, same is allowed. Accompanying document as Annexure A-1 is taken on record, subject to just exceptions.

Application is disposed of accordingly.

CM-9135-C-2026

This is an application under Order 41 Rule 27 CPC seeking permission to lead additional evidence in the shape of documents i.e. final order of partition dated 07.06.2010 passed in R.R. No.223 of 2006 (Annexure A-1) titled “Dalip Singh and others vs. Bahadur Singh (deceased through LRs) and others” and zimini orders of Revenue Officers dated 25.07.2017, 26.07.2017 and 27.07.2017 as Annexure A-2.

Considering the nature of litigation between the parties and the fact that the document (Annexure A-1) which the applicants/appellants want to place on record is pertaining to the order passed by the Revenue Court, therefore the same is taken on record for final adjudication of the case. So far as Annexure P-2 is concerned, the same are zimini orders and application qua this is declined.

Application is accordingly disposed of.

RSA-2215-2022

1. The appellants/defendants have filed Regular Second Appeal against impugned judgment dated 21.03.2022 passed by learned Additional District Judge, Kapurthala vide which the appeal preferred by the appellants/defendants has been dismissed and the judgment and decree dated 06.08.2019 passed by learned Civil Judge (Junior Division), Kapurthala was upheld vide which suit filed by the plaintiffs was decreed.



2. The facts of the case are respondents in appeal/plaintiffs Dalip Singh, Gurdip Singh and Hazara Singh @ Hardip Singh had filed suit for permanent injunction restraining the defendants i.e. appellants from dispossessing them or interfering in their peaceful possession over 24 kanals of land situated in revenue estate of Village Sheikhanwala, Tehsil and District Kapurthala as per jamabandi for the year 2011-12 as detailed in the plaint. It was alleged that plaintiffs had constructed a *kotha* in the suit land and installed electric motor which is running in the name of Gurdip Singh plaintiff. Since, the defendants were threatening to dispossess them by using force, they filed suit for permanent injunction.

3. The appellants/defendants contested the suit on the ground of maintainability and cause of action. It was pleaded that suit land was not in exclusive ownership of Gama, who was only a co-sharer in the suit land. The suit land is joint and no partition has been effected between the co-sharers. The defendants also challenged the revenue record on the basis of exchange deed showing the possession of plaintiffs as incorrect. The defendants prayed for dismissal of suit filed by the plaintiffs.

4. The plaintiffs filed replication to the written statement in which they denied the facts stated in the written statement and reiterated their claim in the plaint.

5. From the pleadings of the parties, following issues were framed by the trial Court:-

(1) *Whether the plaintiff is entitled to permanent injunction as prayed for? OPP*

(2). *Whether the suit is not maintainable in the present form? OPD*



(3) *Whether the plaintiff has got no cause of action or locus standi to file the present suit? OPP*

(4) *Whether the plaintiff has not come to the court with clean hands? OPD*

(5) *Relief.*

6. In order to prove the facts of the case, the plaintiffs have examined Ballu as PW-1, Gurdeep Singh (plaintiff No.2) as PW-2, Sh. Hardeep Singh, Patwari as PW-3 and Ranjit Singh as PW-4. Thereafter, learned counsel for the plaintiff closed the evidence after proving the revenue record and other supporting documents.

7. In order to rebut the case of the plaintiffs, the defendant No.2 examined himself as DW-1. Thereafter, defendant No.2 also closed the evidence after proving on record requisite documents relied upon by them.

8. After hearing the arguments advanced by learned counsel for both the parties, the suit filed by the respondents-plaintiff was decreed vide judgment dated 06.08.2019 passed by Civil Judge (Junior Division), Kapurthala by holding that the plaintiffs are in exclusive possession of suit land and they are entitled to protect the same till the property is partitioned by metes and bounds.

Feeling aggrieved of judgment and decree dated 06.08.2019 passed by learned Civil Judge (Junior Division), Kapurthala, the appellants/defendants have filed the appeal before the First Appellate Court, which was also dismissed vide impugned judgment and decree dated 21.03.2022. Thereafter, present regular second appeal has been filed.

9. I have heard the arguments advanced by learned counsel for



RSA-2215-2022(O&M)

-5-

the appellants/defendants. It is argued that property in question is joint among the co-sharers. Partition proceedings were initiated and the same are at fag end. To establish this fact, appellants/defendants have placed on record copy of order dated 07.06.2010 passed in R.R. No.223 of 2006 (Annexure A-1) titled “Dalip Singh and others vs. Bahadur Singh (deceased through LRs) and others” by Commissioner Jalandhar, Jalandhar Division vide which the revenue petition was declined and it was observed that respondent No.1 i.e. Bahadur Singh (through his LRs) was entitled to his share in the joint khata. It is pointed out that after completion of partition proceedings, the co-sharers will be put into separate possession of their respected shares. The respondents/plaintiffs are not entitled to enjoy the possession of entire suit land as detailed in the plaint. The judgments passed by the courts below are not on sound footing. The suit filed by the respondents/plaintiffs deserves dismissal.

10. I have considered the arguments advanced by learned counsel representing appellants/defendants. As referred above, plaintiffs Dalip Singh and others filed simple suit for permanent injunction restraining the defendants from dispossessing them or interfering in their peaceful possession over 24 kanals of land by using force or in any other manner as detailed in the plaint. While deciding the aforesaid suit, the title of the parties was not adjudicated. The relief of permanent injunction was granted on the basis of exclusive possession and it was clearly observed that the respondents/plaintiffs are entitled to protect their possession till partition of the property by metes and bounds. Therefore, the aforesaid judgment and decree passed by the trial Court and confirmed by the First



RSA-2215-2022(O&M)

-6-

Appellate Court do not affect the partition proceedings going on before the revenue agency.

11 Considering the aforesaid factual position, the judgment and decree dated 21.03.2022 passed by learned Additional District Judge, Kapurthala upholding the judgment and decree dated 06.08.2019 passed by learned Civil Judge (Junior Division), Kapurthala, does not require any interference and the same is accordingly upheld. Consequently, the appeal preferred by the appellants/defendants is dismissed.

12. Pending application(s) if any, also stands disposed of.

15.07.2026

*Sunil Devi***(AMARJOT BHATTI)****JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No