

**RSA-2257-2026 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****170****RSA-2257-2026 (O&M)****Date of decision: 06.07.2026****Nand Lal****....Appellant****Vs.****Musaddi Lal and others****....Respondents****CORAM : HON'BLE MR. JUSTICE HARSH BUNGER****Present: Mr. Abhishek Dhull, Advocate
for the appellant.*************HARSH BUNGER J. (Oral)****CM-8166-C-2026:**

Present application is filed seeking condonation of delay of 11 days in filing the regular second appeal i.e. RSA-2257-2026.

For the reasons mentioned in the application, delay of 11 days in filing the regular second appeal i.e. RSA-2257-2026 is condoned.

Application is accordingly disposed of.

RSA-2257-2026 (O&M):

1. The instant regular second appeal has been filed by the appellant/plaintiff challenging the judgment and decree dated 23.01.2018 passed by learned Additional Civil Judge (Senior Division), Narnaul, whereby the suit for permanent injunction filed by the plaintiff/appellant has been dismissed.

1.1 A further challenge has been made to the judgment and decree dated 11.02.2026 passed by learned District Judge, Narnaul, whereby appeal

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filed by the appellant/plaintiff against learned Trial Court decree dated 23.01.2018 has also been dismissed.

2. Briefly, the appellant/plaintiff filed a suit for permanent injunction against the respondents/defendants on the plea that the father of the plaintiff namely Sh. Suraj Bhan had purchased a plot (as shown in the site plan attached to the plaint) vide sale deed dated 18.09.1961, upon which a house was subsequently constructed. It was averred that the plaintiffs and the defendants No.1 and 4 in the suit were real brothers and that the plaintiff's father had purchased a separate plot for respondent No.4 (Bhoop Singh), wherein respondent No.4 had been residing, after constructing the house. It was pleaded that the plaintiff's father, during his lifetime had given a portion of the house (shown in purple colour in the site plan) to the defendant No.1 Mushadi Lal and the another portion (blue colour in the site plan) to the plaintiff and the portion which was shown in red colour in the site plan, was kept common for plaintiff as well as defendant No. 1 (Mushadi Lal).

2.1 It is the pleaded case of the plaintiff that the plaintiff and defendants are owner in possession of their respective portions and the said allocation to the plaintiff as well as the defendants was duly detailed in the registered Will dated 06.12.2007 allegedly executed by Sh. Suraj Bhan. Plaintiff claimed that defendant No.4 (Bhoop Singh) was given a separate plot, therefore, he has no connection with suit property and neither he has any share in the same. However, all the defendants in collusion with each other were obstructing the plaintiff from using his share of the suit property, by harassing him by their acts of commission and omission, regarding which

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the plaintiff submitted an application to the Deputy Commissioner, Narnaul on 07.10.2014. Accordingly, suit for permanent injunction was filed by the plaintiff.

3. Upon notice, defendants No.1 to 3 appeared in the suit and filed their joint written statement, *inter alia*, on the plea that plaintiff has not come to the Court with clean hands. It was further submitted that the plaintiff was not residing in the suit property as he has been residing in Mumbai (Maharashtra) for the last 28/30 years and his Voter I.D. Card was issued from that place. It was further stated that even the plaintiff's wife Smt. Santra and his sons Lalit Kumar and Anil Kumar were having their Voter I.D's at their Mumbai address. It was stated that plaintiff had come to Narnaul about 4/5 months ago and thereafter he started fighting with the defendants and their mother.

3.1 It was categorically stated that already one suit for partition titled as "*Bhoop Singh and another Versus Musaddi Lal and others*" was pending wherein plaintiff-Nand Lal was impleaded as defendant No.2; where status quo order regarding construction was passed. Therefore, plaintiff has not come with clean hands. The other averments in the suit filed by the plaintiff were denied by the defendants. Accordingly, it was prayed that since another suit was pending before the Court of learned Civil Judge (Junior Division), Narnaul, therefore, the instant suit be dismissed.

3.2 Defendant No.4 (Bhoop Singh) also filed a separate written statement denying the averments in the plaint. Even the site plan produced along with the plaint was denied. Defendant No.4 also stated that a suit for partition was already pending between the parties wherein an order of status

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quo had been passed. However, the plaintiff has concealed the said fact in the present case, accordingly, prayer for dismissal of the suit was made.

3.3 It appears that the plaintiff had filed his replication to the written statements filed by the respective defendants.

4. From the pleadings of the parties, following issues were framed by the learned Trial Court:-

- “1. Whether the plaintiff is entitled for decree of permanent injunction as prayed for in the head note of the plaint? OPP*
- 2. Whether the suit of the plaintiff is not maintainable? OPD*
- 3. Whether the plaintiff has not come to the Court with clean hands? OPD*
- 4. Whether the suit of the plaintiff is barred by limitation? OPD*
- 5. Whether the plaintiff has concealed the material fact from the Court? OPD*
- 6. Relief.”*

4.1 The parties led their respective evidence (oral as well as documentary) on the aforesaid issues.

5. The learned Trial Court after considering the facts, pleadings as well as the evidence available on record, dismissed the suit filed by the appellant/plaintiff, vide judgment and decree dated 23.01.2018, wherein under issue No.1, following finding was returned:-

“..... In the instant suit the onus to prove the invasion by defendants over the share of plaintiff was upon plaintiff whereas from the meticulous examination of the evidence on record nothing could be extracted which can prove invasion over the possession of the plaintiff in the suit property. During the time of adducing evidence as well as arguments the plaintiff kept his concentration for proving the alleged "Will" and also



*tried to establish the fact that the suit property is the "self acquired" one of his father and his father had absolute right to dispose it off as per his wishes. Instead of getting into the issue of validity of the "Will" the plaintiff was simply required to prove his possession and threat to it. As the Court has to decide upon permanent injunction. Since a comprehensive suit where all the issues pertaining to the suit property can be decided in all respect is pending. The plaintiff was supposed to take up the issue pertaining to the present suit in the said suit itself. It appears that the plaintiff had concealed this material fact from the notice of the Court. In this regard I placed reliance upon cast titled as **Kapoor Singh Versus State of Haryana 2007(1) LJR (P&H), 434** wherein it is held that relief of permanent injunction cannot be given to such litigant who had not come to Court with clean hands. Further, during the course of cross-examination the plaintiff himself admitted that Bhoop Singh also filed a suit against him and in that suit status quo order have already been passed. Meaning thereby the plaintiff has the knowledge of the said suit and despite that he filed the instant suit. In this regard I would like to rely upon case titled as **Ranjeet Singh Versus Surajn Singh 2003(3) RCR (Civil)** wherein it was the law that admission is a conclusive and binding proof on the party making it unless it is way that the admission was erroneously made. In the instant case the plaintiff made this admission on oath in the Court therefore, nor presumption can be drawn that he has no knowledge about the previously instituted suit titled as Bhoop Singh Versus Mushadi Lal filed on 28.10.2014 whereas the instant suit is filed on 17.3.2015 almost after 5 months of the filing of the earlier suit. Ex.D-1 i.e. the order dated 10.11.2014 in suit titled Bhoop Singh Versus Mushadi Lal CS No.201/14 the learned Court passed a, order of status quo regarding construction over the suit property against appearing defendants. And a perusal*



of that zimni order and title of the plaint go to show that the present plaintiff Nand Lal is the defendant no.2 and appearing as defendant in that suit on 10.11.2014. It shows that the plaintiff has not the invoked the jurisdiction of the present Court with clean hands. Though, the plaintiff has adduced voluminous evidence over the file for proving the alleged "Will" which is not in issue in the present case and by way of an effort to prove the said Will the plaintiff has tried to set up a separate suit under the disguise of present suit. Furthermore, no such evidence as to ouster of plaintiff over his share as well as any obstruction by defendants has come on record. In view of the above discussion the suit is liable to be dismissed without commenting upon the alleged "Will".

6. Feeling aggrieved against the aforesaid judgment and decree passed by learned Trial Court, the present appellant/plaintiff filed an appeal before the learned District Judge, Narnaul, which has been dismissed vide judgment and decree dated 11.02.2026, by holding as under:-

“24. In the light of the above evidence, now it is to be decided by this Court whether the learned trial court has rightly dismissed the suit or the findings are perverse and not based on record. It is admitted case of the parties that prior to the institution of the present suit i.e. on 17.3.2015, suit titled as 'Bhoop Singh and another Versus Musaddi Lal and others' was instituted on 3.10.2014 and the suit was filed for seeking separate possession by way of partition and plaintiff/Nand Lal was defendant no.2 in the said suit. It is also admitted fact that the said civil suit has been decided vide judgment dated 25.09.2025 and the relevant part of the said judgment is as under:-

“Thus, there is no other plausible manner to ascertain the genuineness of the Will apart from to prove it in accordance with the manner provided under the



cumulative implications of the provisions under Section 63, 68 and 69 of the Evidence Act, Section 63 of the Indian Succession Act and the settled principles of law laid down by the Hon'ble Supreme Court. As already discussed in detail, the Defendant number 2, who is the propounder of the Will, could not satisfactorily dispel the onus of proof upon him to prove the Will in accordance with law and to the satisfaction of this Court.

Ergo, as and upshot to the foregoing discussion and since, there is no dispute regarding the share of the property between the Plaintiffs and Defendant no. 1 and 3 and Defendant no. 2, who was having the only objection based on a Will, could not fortify his objection regarding the Will itself, the issues no.1 and 2 are decided in the favour of the Plaintiffs and accordingly, the Plaintiffs are entitled to 2/5th share in the house in dispute / suit property and the defendants are jointly entitled to the remaining 3/5th share in the same. Furthermore, till there is a partition of the same by metes and bounds or otherwise, both the plaintiffs as well as defendants are permanently enjoined from interfering in the possession, use and enjoyment of the suit property of each other.”

25. *In the present suit, the plaintiff had prayed for decree of permanent injunction and tried to set-up his case on the basis of the Will, which was not in issue in the case and that has been done by the plaintiff/appellant when suit for partition was already pending between the parties. After going through the record of the case, this Court is of the view that plaintiff has failed to prove that there was any attempt on the part of the defendants to ouster the plaintiff from his share or to create any obstruction in the enjoyment of the property by the plaintiff.*

26. *At the time of arguments, learned counsel for the appellant has failed to show any evidence to infer that defendants had ever attempted to oust the plaintiff or caused any hindrance/obstruction in the enjoyment of the property by the plaintiff. Learned counsel for the appellant has also admitted that suit for partition between the parties has been*

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decided vide judgment and decree dated 25.9.2025 and even the Will dated 6.12.2007 was also in issue in the said suit and detailed findings have been given about the genuineness of the said Will and it has been held that the said Will has not been proved in accordance with law.

27. *In view of the above discussion, this Court is of the view that learned trial court has rightly appreciate the record and rightly decided issue no.1 against the plaintiff. Accordingly, findings of learned trial court on issue no.1 are upheld.*

7. In the aforementioned circumstances, present regular second appeal has been filed before this Court, for seeking relief(s) as noted hereinabove.

8. I have heard the learned counsel for the appellant and perused the paperbook with his able assistance.

9. Evidently, the appellant/plaintiff had filed a suit for permanent injunction in respect of the portion of a house, which is claimed to have been purchased by Sh. Suraj Bhan (father of the appellant/plaintiff as well as defendants No.1 and 4). The entire claim of the appellant/plaintiff is based upon a Will dated 06.12.2007, claimed to have been executed by Sh. Suraj Bhan.

9.1 Concededly, the plaintiff as well as defendants No.1 and 4 are real brothers. It is also not disputed before this Court that prior to the filing of the suit for permanent injunction, the respondent No.4 (Bhoop Singh) had already filed a suit for partition titled as “*Bhoop Singh and another Vs. Mushadi Lal and others*”, wherein the present appellant/plaintiff was impleaded as defendant No.2.



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9.2 In the above referred suit filed by respondent No.4 (Bhoop Singh), the present appellant/plaintiff had also raised objections based upon the above-referred Will dated 06.12.2007, however, he failed to prove the Will in the said suit, which came to be decided vide judgment and decree dated 25.09.2025.

10. That apart, both the Courts below have returned a concurrent finding of fact that the appellant/plaintiff has failed to lead any evidence so as to show the ouster of the plaintiff from his share or any obstruction being caused by the defendants in the enjoyment of property by the plaintiff. Accordingly, suit filed by appellant/plaintiff was dismissed.

11. Before this Court, learned counsel appearing for the appellant has failed to dislodge the findings returned by the Courts below. The findings of learned Courts below have neither been shown to be perverse or illegal or based upon misreading or mis-appreciation of evidence, so as to call for any interference by this Court. I have carefully perused the findings returned by learned Courts below and I find that the same are based upon proper appreciation of facts, evidence on record as well as law. No question of law, much less substantial question of law arises for adjudication in this regular second appeal. The present regular second appeal is devoid of any merit and the same is accordingly, **dismissed**.

12. All the pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

06.07.2026
Ankit

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No