

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 3073 of 2018(O&M)

Date of Decision: 16.5.2018

Jaswinder Kaur @ Lakhwinder Kaur and others

---Appellants

versus

Chanan Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. O.P.Hoshiarpuri, Advocate
for the appellants**

Rekha Mittal, J.

CM Nos. 7843 and 7844-C of 2018

Prayer in these applications is for condoning delay of 1 day in filing and 8 days in refiling the appeal.

In view of averments made in the applications supported by affidavits of Sh. O.P.Hoshiarpuri, Advocate, counsel for the applicants and Joga Singh, one of the appellants and arguments advanced, applications are allowed and delay of 1 day in filing and 8 days in refiling the appeal stands condoned.

RSA No. 3073 of 2018

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for declaration filed by the appellants-plaintiffs that they are in joint possession as owners/co-sharers to the extent of 29 kanal 6 marlas out of land measuring 74 kanal 5 marlas as per jamabandi for the year 2010-11 situated in village Waras Wala Jattan

Tehsil Zira and the alleged partition purported to be effected between the parties vide which plaintiffs are allotted land measuring 21 kanal 5 marlas in stead of 29 kanal 6 marlas is illegal, null and void and is the result of fraud committed by the respondents/defendants in connivance with other co-sharers. Further challenge has been laid to mutation No. 1454 sanctioned on the basis of agreement of partition dated 26.7.2005. The suit was dismissed by the trial court vide judgment and decree dated 9.9.2016 and appeal preferred by the unsuccessful plaintiffs/appellants did not find favour with the Additional District Judge, Ferozepur vide decision dated 2.12.2017.

On the basis of pleadings of the parties, the trial court framed issues, reproduced in para 5 of the judgment of said court. One of the issues framed by the trial court is “whether the suit is time barred? OPD”. Both the courts have recorded concurrent findings that suit filed by the plaintiffs/appellants to challenge the agreement of partition dated 26.7.2005 and mutation No. 1454 sanctioned on the basis thereof, instituted in March 2014 is barred by limitation having been filed after expiry of three years from the date of agreement and sanction of mutation.

Counsel for the appellants, in response to a query, would fairly inform that mutation in the year 2005 was sanctioned in presence of the appellants, therefore, they had necessary knowledge of sanction of mutation since October 2005. As the appellants knew about sanction of mutation in October 2005 on the basis of agreement of partition dated 26.7.2005 sought to be challenged by present suit in the year 2014, I do not find any reason to interfere in the consistent findings upholding plea of the respondents/defendants that the suit is barred by limitation. That being so,

it would be an exercise in futility to examine other aspects of the matter.

For the foregoing reasons, the appeal fails and is accordingly
dismissed in limine. No order as to costs.

(**Rekha Mittal**)
Judge

16.5.2018
PARAMJIT

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No