

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

**RSA No.2610 of 2017 (O&M)
Date of Decision.01.05.2019**

Pawan Kumar (since deceased) through LRs ...Appellant

Vs

Inderjit and others ..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rahul Rampal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.6460-C of 2017

For the reasons stated in the application, delay of 21 days
in re-filing of the appeal is condoned.

Application is allowed.

Main case

The short point involved in the present case is whether
suit of the appellant-plaintiff for partition and declaration qua
ownership of property with consequential relief of permanent
injunction was liable to be decreed in toto, for want of partial
partition.

The admitted case of the plaintiff was that one of the
properties was orally partitioned and therefore, no such claim was
laid. The revenue record reflected jointness of the properties. In
such circumstances, even record revealed factual position and rightly
so preliminary decree has been declined and finding the plaintiff to be
in possession, defendants have been injuncted from forcibly
dispossessing the plaintiff except in due course of law.

As regards declaration with regard to one of the properties, there was assertion of the plaintiff qua transfer by the father in favour of another son but the plaintiff could not prove the oral family partition.

The appeal is also accompanied by an application for condonation of delay of 52 days in filing of the appeal. The explanation lacks reasonable cause and bona fide.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed both on the ground of delay as well as on merits.

(AMIT RAWAL)
JUDGE

May 01, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No