

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****113****RSA-5813-2019 (O&M)****Date of Decision : 25.09.2024**

Jamila

....Appellant

VERSUS

Jamaluddin @ Jamalu @ Nannu and Ors

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ravi Malik, Advocate for
Mr. S.K. Panwar, Advocate for the appellant.

ALKA SARIN, J. (Oral)**CM-16707-C-2019**

1. This is an application for condonation of delay of 50 days in filing the present appeal.

2. For the reasons stated in the application, the same is allowed.
The delay of 50 days in filing the present appeal is condoned.

CM-16705-C-2019

3. This is an application for condonation of delay of 68 days in re-filing the present appeal.

4. For the reasons stated in the application, the same is allowed.
The delay of 68 days in re-filing the present appeal is condoned.

RSA-5813-2019 (O&M)

5. Present appeal has been preferred by the plaintiff-appellant against the judgment and decree dated 24.12.2015 passed by the Trial Court and the judgment and decree dated 05.12.2018 passed by the First Appellate Court.

6. The brief facts relevant to the present *lis* are that the plaintiff-appellant herein filed a suit for declaration and permanent injunction averring therein that Late Nazar Khan was the owner in possession of 1/4th share in the agricultural land as described in the para 1 of the plaint. The plaintiff-appellant claimed herself to be the widow of Nazar Khan, who expired in April 1998. It was further the case that she had no issue from loins of Nazar Khan but she being a legal heir had acquired the suit property after his death and that the defendant-respondents have no concern with the suit property. It was further averred that defendant-respondent Nos.5 to 7 filed a suit for declaration on 04.12.1985 against her husband and got a decree in their favour on 31.01.1986, which was illegal, null and void and not binding on her rights. It was further the case that defendant-respondent Nos.1 to 4 are the sons of one Rahim Khan and their mother Smt. Sammo and had no relations with deceased Nazar Khan. It was further the case that defendant-respondent Nos.1 and 2 had filed a suit for declaration on 24.8.1988 titled as 'Jamaluddin and Others vs. Makhmool and Others', which was decided in their favour on 20.01.2007 and thereafter the defendant-respondent Nos.1 and 2 were claiming themselves to be owners in possession of the suit property and mutation was also sanctioned in their favour on 17.06.2007 and that they were threatening to dispossess the plaintiff-appellant. Written statement was filed by defendant-respondent Nos.1 to 4. Besides the preliminary objections, it was denied that the plaintiff-appellant was ever married to Nazar Khan. It was further the stand taken that the issue regarding the sons of Nazar Khan already stood decided

in Civil Suit No.683 of 1998 and thereafter an appeal was also preferred which was dismissed and the judgment was upheld upto this Court holding that the defendant-respondent Nos.1 and 2 to be the sons of Nazar Khan. It was further the case that the suit had been filed by the plaintiff-appellant in collusion with defendant-respondents Nos.5 to 7.

7. On the basis of pleadings of the parties the following issues were framed :

1. Whether the plaintiff is widow of Nazar Khan and is owner in possession of suit land ? OPP
2. Whether the judgment and decree in favour of defendants No.1 to 7 are illegal, null and void ? OPP
3. Whether the defendants No.1 and 2 are not sons of Nazar Khan and are sons of Rahim Khan ? OPP
4. Whether the name of defendant No.1 is Jamaluddin @ Nannu son of Rahim and name of defendant No.2 as Kamaluddin @ Pannu son of Rahim Khan, residents of village Nakhrola ? OPP
5. Whether the suit is not maintainable in the present form ? OPD
6. Whether the suit is not properly valued for the purpose of court fees and jurisdiction ? OPD
7. Whether the suit is barred by limitation ?
8. Relief.

8. The Trial Court dismissed the suit vide judgment and decree dated 24.12.2015. Aggrieved by the same an appeal was preferred which appeal was also dismissed vide judgment and decree dated 05.12.2018. Hence, the present regular second appeal.

9. Learned counsel for the plaintiff-appellant would contend that the plaintiff-appellant is the widow of Nazar Khan and that it was amply proved on the record that she had every right, title or interest in the property left by Nazar Khan.

10. Heard.

11. In the present case it has been held concurrently by both the Courts that the plaintiff-appellant failed to establish that she is the widow of Nazar Khan. On the contrary, she admitted in her cross-examination that on Ex.D1, which is the original identity card issued by Haz Committee, she was recorded as the wife of Suleman who happens to be the younger brother of Nazar Khan. The Courts concurrently found that in the earlier suit, which decree was upheld upto this Court, defendant-respondent Nos.1 and 2 were held to be the sons of Nazar Khan.

12. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

**(ALKA SARIN)
JUDGE**

25.09.2024
jk

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