



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

**RSA-1589-2021 (O&M)
Decided on : 06.08.2025**

Ramesh Kumar Kashyap

..... Appellant

Versus

Munshi Ram and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sumit Sharma, Advocate
for the appellant.

VIKRAM AGGARWAL, J (ORAL)

CM-6286-C-2021

Prayer in the present application, filed under Rule 5 (1) Chapter 1 Part A Volume-5 of the High Court Rules and Orders read with Section 151 CPC is for condonation of delay of 40 days in re-filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is duly supported by an affidavit, the same is allowed and the delay of 40 days in re-filing the accompanying appeal is condoned.

CM-6287-C-2021

Prayer in the present application, filed under Section 5 of the Limitation Act is for condonation of delay of 15 days in filing the accompanying



appeal.

Heard.

For the reasons mentioned in the application which is duly supported by an affidavit, the same is allowed and the delay of 15 days in filing the accompanying appeal is condoned.

RSA-1589-2021 (O&M)

This is plaintiff's second appeal against the judgment and decree dated 03.10.2019, passed by the Court of Additional District Judge, Faridabad, dismissing the appeal filed by the plaintiff against the judgment and decree dated 20.12.2016, passed by the Court of Civil Judge (Junior Division), Faridabad vide which the suit for partition with consequential relief of permanent injunction, filed by the plaintiff, was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3(i). The plaintiff Ramesh Kumar Kashyap instituted a suit for partition and consequential relief of permanent injunction against the defendants who were his brothers and sisters. The case set up was that the plaintiff and defendants, being brothers and sisters, were co-sharers and owners in possession of House No.156, Jawahar Colony, NIT Faridabad, measuring 150 square yards. Area measuring 95 square yards out of the said house had been given to the daughters-in-law namely Sharda Rani and Shanti Devi through Will dated 18.01.1995. Accordingly, the plaintiff and defendants were co-sharers of the remaining portion



of the house measuring 55 square yards, consisting of one basement, three shops on the ground floor, two rooms on the first floor and two rooms on the second floor with kitchen and bathroom (hereinafter referred as 'the suit property').

3(ii). The father of the plaintiff namely Chet Ram is stated to have purchased the said house vide registered sale deed dated 26.09.1963. After the death of Chet Ram, the plaintiff and defendants had inherited the suit property in equal shares (11 square yards each). Since the plaintiff did not wish to stay with the defendants, he intended to get the suit property partitioned by metes and bounds to which the defendants did not agree, leading to the filing of the suit.

4(i). The suit was contested only by defendant No.1. Defendants No.2 to 4 did not appear and were accordingly proceeded against *ex parte*. In the written statement submitted by defendant No.1, certain preliminary objections as regards maintainability, concealment, estoppel, locus standi, cause of action were raised. On merits, a stand was taken that defendant No.1 was the real owner in possession of the suit property and the suit had been preferred by the plaintiff in collusion with defendants No.2 to 4.

4(ii). It was averred that during the life time of Chet Ram, he had executed a sale deed qua the suit property in favour of defendant No.1 on 12.04.1990 (Area measuring 42 square yards) and the remaining property was partitioned. Defendants received Rs.10,000/- each as their share. It was also averred that the plaintiff had filed another suit titled as '*Ramesh Kumar versus Munshi Ram*' for declaration and consequential relief of permanent injunction. Further, a similar suit between the same parties had been dismissed on 31.10.2012, civil appeal too



was dismissed on 15.11.2013 and the second appeal was pending before this Court.

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

- 1. Whether the plaintiff is entitled to relief of a decree for partition as prayed for ? OPP*
- 2. Whether the plaintiff is entitled to relief of a decree for permanent injunction as prayed for ? OPP*
- 3. Whether the suit of the plaintiff is not maintainable in the present form ? OPD*
- 4. Whether plaintiff has no locus standi and cause of action to file present suit ? OPD*
- 5. Whether the plaintiff has concealed the true and material facts from the Court ? OPD*
- 6. Whether the plaintiff is estopped from filing the present suit ? OPD*
- 7. Relief.*

6. Parties led their respective evidence.

7. The trial Court dismissed the suit filed by the plaintiff and the appeal filed against the said decision was also dismissed, leading to the filing of the present regular second appeal.

8. I have heard learned counsel for the appellant.

9. Learned counsel for the appellant submits that both Courts erred in



dismissing the suit. He has referred to the judgments under challenge and has argued that the same are not sustainable.

10(i). I have considered the submissions made by learned counsel for the appellant but find the same to be devoid of merit. The claim of the petitioner that land measuring 95 square yards had been willed in favour of Sharda Rani and Shanti Devi and for the remaining 55 square yards, the plaintiff and defendants were owners in possession to the extent of 1/5th share each, was found to be false. It was proved that area measuring 42 square yards of the suit property had been alienated in favour of defendant No.1 by Chet Ram. Further, the plaintiff, while appearing as PW1, admitted that he had filed a suit for cancellation of the sale deed in favour of Munshi Ram which was pending. Since this factum was concealed by the plaintiff in the plaint, the Courts found that the suit property had not been clearly defined and that the title was not clear and that under the circumstances, partition could not be ordered.

10(ii). It also came on record that the plaintiff had also filed a suit for permanent injunction regarding the total property measuring 150 square yards which was decided by the Court of Civil Judge (Junior Division), Faridabad vide judgment and decree dated 31.10.2012. Another suit for declaration and injunction instituted by the plaintiff was stated to be pending. The Courts, therefore, rightly found that the suit seeking partial partition was not maintainable since the plaintiff himself was not clear about the extent of his rights in the property. Both Courts, therefore, rightly non-suited the plaintiff. Not only this, even a site plan was not filed by the plaintiff to buttress his claim.



10(iii). In view of the aforementioned facts and circumstances, I do not find any reason to interfere in the pure findings of facts recorded by both Courts.

Accordingly, the appeal is found to be bereft of merit and is hereby dismissed.

Pending application(s), if any, shall stand disposed of accordingly.

06.08.2025
mamta

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No