



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

RSA-2336-2019 (O&M)

Date of decision : 23.12.2025

AMIT JAMWAL AND ORS

....Appellants

Versus

MOHINDER SINGH AND ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

**Present : Mr. Rajnish Gupta, Advocate
for the appellants.**

**Mr. Vivek K. Thakur, Avocate
for respondents No.1, 3, 5(i).**

PANKAJ JAIN, J. (ORAL)

CM No.6292-C of 2019

This is an application filed under Section 151 CPC seeking condonation of delay of 58 days in re-filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicants/appellants have made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 58 days in re-filing the instant appeal is hereby condoned.

RSA-2336-2019 (O&M)

LRs of defendant No.1 are in second appeal aggrieved of the judgment and decree passed by the Courts below whereby the suit filed by



the plaintiff seeking partition has been partly decreed w.r.t. 19 Marlas of land.

2. For convenience the parties hereinafter are referred to as by their original position before the Court of First Instance, i.e., the appellants as LR's of defendant No.1, respondent No.1 as plaintiff and respondents No.2 to 6 as defendants No.2 to 6.

3. Plaintiff filed suit seeking partition by metes and bounds of a double-storey house as detailed out in the headnote of the plaint and also sought partition of a vacant plot measuring 1 Kanal 12 Marlas of land.

4. Qua 1 Kanal 12 Marlas of land the suit stands dismissed. However, preliminary decree has been passed by the Courts below w.r.t. residential house measuring 19 Marlas.

5. Counsel for the appellants has assailed the findings recorded by the Courts below. It has been asserted that the simple suit for partition was not maintainable as the consequential relief of possession was not prayed for. It has been further contended that there was an oral family settlement between the parties. As per the same, all the parties were in possession of their respective shares. The house property also got partitioned in the said oral family settlement. However, the Courts below ignored the same and thus it is a case of misreading of evidence.

6. Per contra, Mr. Thakur submits that apart from bald assertion raised w.r.t. oral family settlement, no cogent piece of evidence was led by the defendants. There being no dispute that the property i.e., residential



house constructed over 19 Marlas of land being joint property, Courts below have rightly decreed the suit and passed preliminary decree of partition.

7. I have heard counsel for the parties and have gone through records of the case.

8. Keeping in view that the property was pleaded by the plaintiff to be joint, once plaintiff claims partition by metes and bounds, the prayer for separate possession is inherent in the prayer made in the suit. Thus, the plea raised by Mr. Gupta w.r.t. maintainability of the suit sans merit and is hereby rejected.

9. In the considered opinion of this Court, no fault can be found with the pure findings of fact recorded by the Courts below w.r.t. residential house admeasuring 19 Marlas being joint. The moment, defendants pleaded oral family settlement, it is impliedly admitted that the property is joint. Thus, it was incumbent upon the defendants to prove the oral family settlement and partition of the property involved.

10. Mr. Gupta is not in a position to dispute that apart from raising bald plea, there is no evidence led by appellant on record for this Court to infer family settlement between the parties and to conclude that the residential house in question was partitioned.

11. In view of above finding no merit in the present appeal, the same is ordered to be dismissed.



12. Pending application, if any, shall also stands disposed off.

December 23, 2025

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No