



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

(107)

RSA No.1271 of 2021 (O&M)

Date of Decision: 02.07.2025

Charan Singh

...Appellant

Versus

Indro Bai and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Aseem Kataria, Advocate &
Mr. Jai Bhagwan, Advocate
for the applicant-appellant.

VIKRAM AGGARWAL, J (ORAL)

CM-5239-C-2021

Prayer in the present application filed under Section 151 CPC is
for condonation of delay of 1653 days in re-filing the appeal.

Heard.

For the reasons mentioned in the application, which is duly
supported by an affidavit, the same is allowed and the delay of 1653 days in
re-filing the appeal is condoned.

CM-5238-C-2021

Prayer in the present application filed under Section 5 of
Limitation Act is for condonation of delay of 62 days in filing the appeal.

Heard.

For the reasons mentioned in the application, which is duly
supported by an affidavit, the same is allowed and the delay of 62 days in
filing the appeal is condoned.

CM-5240-C-2021

This is an application moved under Order 41 Rule 27 CPC for producing a certified copy of jamabandi for the year 1964-65 by way of additional evidence.

The said application has not been pressed during the course of arguments.

Be that as it may, I have perused the application. It has been averred in the application that the First Appellate Court has returned a finding that the applicant-appellant did not produce any document except for jamabandi for the year 1968-69 to prove the ownership of the suit land. It has been averred that the name of the predecessor-in-interest of the applicant-appellant is reflecting in the jamabandi for the year 1964-65 in the column of ownership as a result of which the applicant-appellant seeks to produce it by way of additional evidence.

Having perused the application, the same is found to be devoid of merit. The applicant-appellant cannot be permitted to fill up the lacuna and evidence which existed at the time when evidence was led should have been produced at that very time. Nothing has been averred in the application to even *prima facie* show that despite due diligence, the applicant-appellant was not in a position to produce the said jamabandi in evidence.

That being so, the application is found to be devoid of merit and is accordingly dismissed.

Main Case

Plaintiff (Charan Singh) has preferred the instant appeal against the judgment and decree dated 14.01.2016 passed by the Court of Additional

District Judge, Fazilka, dismissing the appeal filed by the plaintiff against judgment and decree dated 10.12.2014 passed by the Court of Additional Civil Judge (Senior Division), Fazilka, vide which the suit filed by the plaintiff for declaration was dismissed.

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

3. One Bela Singh had four sons namely Charan Singh (plaintiff), Bachan Singh, Jagtar Singh and Kartar Singh. Bela Singh was owner to the extent of $\frac{1}{2}$ share of land measuring 37 kanals 16 marlas (fully described in the plaint) situated in Village Chuhri Wala Chisti, Tehsil Fazilka (hereinafter referred to as the suit land).

3.1 The case set up was that defendants No.1 to 5 were the legal heirs of Kartar Singh s/o Bela Singh. A *Fardbadar* was illegally sanctioned in favour of Kartar Singh as regards the suit land. It was averred that since Bela Singh had four sons, all were entitled to equally inherit the suit land in equal shares. Accordingly, a declaration was sought that the plaintiff and defendants No. 6 and 7 (Bachan Singh and Jagtar Singh through LRs) were owners to the extent $\frac{3}{4}$ share in the suit land and defendants No.1 to 5 were owner to the extent of $\frac{1}{4}$ share and that the *Fardbadar* No.22 was null and void and was liable to be set aside.

3.2 Defendants No.1 to 5 opposed the suit. The stand taken was that Kartar Singh along with Bakhtawar Singh and Veer Singh had purchased land measuring 30 kanals on 04.11.1962 in an auction and 32 kanals on 06.12.1962 in an auction. Further, Mutations No.366 and 365 dated 30.07.1963 were duly sanctioned. Thereafter, Veer Singh got his land separated from Bakhtawar Singh and Kartar Singh. Bakhtawar Singh and

Kartar Singh were therefore left with 2/3 share i.e., land measuring 42 Kanals 14 Marlas. In the consolidation proceedings, new numbers were allotted in lieu of the land of Bakhtawar Singh and Kartar Singh. However, in the jamabandi, the name of Bela Singh was wrongly recorded as owner of the suit land. An appeal was filed which was allowed and Fardbadar was sanctioned. It was averred that Bela Singh was never the owner of the suit land nor had he purchased the same. It was also averred that defendants No.1 to 5 had sold the suit land in 1983 to Bhajan Kaur who had further sold it to Ranjit Singh and Lakhwinder Singh.

4. Defendants No.6 and 7 did not contest the suit and were proceeded against ex parte.

5. In the replication, averments made in the written statement were denied and those made in the plaint were reiterated.

6. From the pleadings of the parties, following issues were framed:-

- (1) *Whether plaintiff is entitled to the declaration as prayed for? OPP*
- (2) *Whether the plaintiff has no right, cause of action to file the present suit? OPD*
- (3) *Whether suit of the plaintiff is not maintainable in the present form? OPD*
- (4) *Whether the plaintiff has concealed the material and patent facts from the Court, if so, its effect? OPD*
- (5) *Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD*
- (6) *Relief.*

7. Parties led their respective evidence. The trial Court dismissed the suit filed by the plaintiff and the appeal 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 has submitted that both Courts erred in non-suiting the plaintiff. He submits that reliance was erroneously placed upon the *Khatauni Pamaish* which is not a document of title. He submits that since Bela Singh was the owner of the suit land, the same should have devolved in equal shares upon his four sons. Learned counsel submits that the Fardbadar was erroneously sanctioned. Learned counsel has referred to the findings recorded by both Courts and has submitted that the said findings are not sustainable.

10. I have considered the submissions made by learned counsel for the appellant but find the same to be devoid of merit. Both Courts examined the matter in depth and rightly came to the conclusion that the plaintiff had no case. The reliance placed by the plaintiff was only upon jamabandi for the year 1968-69 to prove that Bela Singh was the owner of the suit land. No other evidence was produced to show as to how he had become the owner of the suit land. A stand was taken that the land had been allotted to him in lieu of his land in Pakistan which was also not proved. Per contra, the defendants had led cogent evidence to prove their stand based upon which concurrent findings of facts were recorded by both Courts. Reference was made to the documents Ex.D-1 to D-4 which prove that the Fardbadar had rightly been sanctioned in favour of Kartar Singh whereafter the land had been mutated in favour of defendants No.1 to 5.

11. Defendants No.6 and 7 did not contest the suit and were proceeded against *ex parte*. Though, this may not affect the merits of the case, it does show that they were not aggrieved of the Fardbadar sanctioned in favour of Kartar Singh.

Nothing has been shown which may have led this Court to proceed further with the appeal and to interfere in the concurrent findings of facts recorded by both Courts. No question of law, therefore, arises for consideration of this Court.

In view of the above, I do not find any merit in the present appeal and the same is dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

July 02, 2025
Rekha

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