



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

**RSA No. 2960 of 2019 (O&M)
Date of Decision: 08.01.2025**

Improvement Trust, Ludhiana through its
Chairman and another

..... Appellants

Versus

Ludhiana Central Bank Employees Cooperative
House Building Society Limited, through its
President and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Anil Kumar Sharma, Advocate
for the appellants-defendant Nos. 1 & 2.

HARKESH MANUJA, J. (ORAL)

CM-8070-C-2019

Application is **allowed**, as prayed for, subject to all just exceptions. The documents annexed with application as Annexures A-1 to A-4 are taken on record.

RSA No. 2960 of 2019 (O&M)

Though, present appeal has been filed alongwith an application for condonation of delay of 1689 days in filing, however, in view of the reasons given in the application, sufficient explanation is made out for condoning the delay as the judgment and decree was passed by the Court of Additional District Judge, Ludhiana (**hereinafter to be referred as “First Appellate Court”**) on 28.02.2014 against which, a Review Application was preferred by the applicants-appellants on 04.04.2014, which came to be

decided on 15.11.2018 and the present appeal was filed on 08.03.2019.

[2] Briefly stating, respondent No. 1-plaintiff, i.e. Ludhiana Central Bank Employees Cooperative House Building Society Limited, filed a suit for recovery of Rs. 1,67,000/- as damages against the appellants-defendants/Improvement Trust, Ludhiana, alleging demolition of the boundary walls and rooms constructed by the plaintiff-Society. In response, written statement was filed on behalf of the appellants, disputing the averments made in the plaint.

[3] On the basis of pleadings of the parties, the trial Court framed the following issues:-

- “1. *Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD*
2. *Whether the suit is not maintainable in the present form? OPD*
3. *Whether the plaintiff is barred by its own act and conduct from filing the present suit? OPD*
4. *Whether plaintiff is entitled to the recovery of any amount? If so, to what extent? OPP*
5. *Whether the plaintiff is entitled to recover any interest, if so, at what rate and what amount? OPP*
6. *Relief. ”*

[4] Learned Civil Judge (Junior Division), Ludhiana (**hereinafter to be referred as “trial Court”**), vide judgment and decree dated 19.03.1998, dismissed the suit filed at the instance of respondent No. 1-plaintiff / Society.

[5] Aggrieved thereof, respondent No. 1-plaintiff filed first appeal, which came to be partly allowed vide judgment and decree dated 28.02.2014 passed by the First Appellate Court, awarding damages to the tune of

Rs.5,000/- in its favour. Hence, the present appeal.

[6] Impugning the aforesaid judgment and decree passed by the First Appellate Court, learned counsel for the appellants-defendant Nos. 1 & 2 submits that a serious dispute was raised about the identity of the property in question and the First Appellate Court totally mis-read the evidence in this regard, while decreeing the suit in part in favour of respondent No. 1-plaintiff / Society.

No other argument has been raised on behalf of the appellants-defendant Nos. 1 & 2.

[7] After hearing learned counsel for the appellants and having gone through the paper-book / records, I am unable to find substance in the submissions made on behalf of the appellants; thus, the judgment and decree passed by the First Appellate Courts warrants on interference.

[8] The plea raised on behalf of the appellants regarding the identity of the property in comparison with the estimate produced and proved on behalf of respondent No. 1-plaintiff has already been dealt with in detail by the First Appellate Court and upon appreciation of evidence, finding of fact has been recorded while awarding damages for a sum of Rs. 5,000/- in favour of respondent No. 1-plaintiff. Moreover, it has not been pointed out that there is misreading or non-application any material admissible evidence.

[9] In such circumstances, finding no illegality or perversity with the findings recorded by the First Appellate Court, the present appeal being devoid of merits, the same is hereby **dismissed**.

[10] Since the main appeal stands dismissed, no orders are required to be passed in the pending miscellaneous application(s), including condonation of delay, the same stand disposed off.

January 08, 2025
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(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>