



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

129

RSA-720-2025 (O&M)
Date of Decision: 20.08.2025

Kulwant Kaur

...Appellant

V/s

The Secretary, Department of Rehabilitation Punjab and others...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. D.S. Virk, Advocate, for the appellant.

VIKRAM AGGARWAL, J (ORAL)CM-2566-C-2025

Prayer in the present application preferred under Section 5 of the Limitation Act, 1963 is for condonation of delay of 18 days in filing the appeal.

Heard.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed. The delay of 18 days in filing the appeal is condoned.

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Allowed as prayed for subject to all just exceptions.

RSA-720-2025 (O&M)

This is plaintiff's appeal against the judgment and decree dated 12.11.2024 passed by the Court of Addl. District Judge, Rupnagar, dismissing the appeal filed by the plaintiffs-appellant against the judgment and decree dated 30.10.2019 passed by the Court of Civil Judge (Jr. Divn.), Rupnagar, vide which the suit of the appellant-plaintiffs for declaration was dismissed.



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

3. Appellant-plaintiff along with one Mukhtiar Singh (who is father of the appellant) filed a suit for declaration and permanent injunction restraining the defendants (defendants No.1 to 4 are official respondents, with defendants No.5 to 13 being private parties) from interfering, selling, alienating, transferring, mortgaging, dispossessing or changing the nature of Plot No.15, marked as 'ABCD' situated in Village Bajidpur, Tehsil and District Rupnagar (fully described in the plaint) (hereinafter referred to as the "suit property").

3.1 It was averred that the suit property was owned and possessed by the plaintiffs for the last 45 years. A *bara* over the suit property was constructed by the plaintiffs, in which household articles were lying. The plaintiffs had also planted trees over the suit property and their cattle had also been kept there. It was averred that a resolution dated 26.10.1979 was passed by the Gram Panchayat, Village Bajidpur as regards possession of the plaintiffs. It was also averred that an affidavit by the Gram Panchayat admitting the possession of the plaintiffs was also given. It was averred that the defendants had no concern with the suit property. It was averred that the suit property adjoined with a Dharamshala of Village Bajidpur and the defendants had conspired together to grab the suit property. Earlier also two suits had been filed by the father of the appellant-plaintiff. The defendants threatened to demolish the construction of the plaintiffs leading to the filing of the suit.

4. The defendants opposed the suit. Defendants No.1 to 4 filed their joint written statement. Certain preliminary objections with regard to *res judicata*, maintainability, non-joinder of necessary parties, *locus standi*, cause



of action and concealment of facts etc. were raised. On merits, it was averred that defendants No.1 to 4 were public servants and had no personal knowledge about the parties to the suit. It was averred that the suit property was situated within the Lal Lakir of Village Bajidpur. It was further averred that no notice under Section 80 CPC having been served upon the defendants. Other averments made in the plaint were denied.

4.2 Defendants No.5 to 13 also filed their joint written statement and took similar pleas as taken by defendants No.1 to 4, beside stating that site plan filed by the plaintiffs was wrong and that the father of the appellant-plaintiff had lost his previous litigation up to the High Court. Other averments were denied.

5. Separate replications were filed, in which the contents of the written statements were denied and those made in the plaint were reiterated.

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

- “1. Whether the plaintiffs are entitled to relief of declaration, as prayed for?OPP***
- 2. Whether the plaintiffs are entitled to relief of permanent injunction, as prayed for?OPP***
- 3. Whether the suit is barred by principle of res-judicata?OPD***
- 4. Whether the suit of the plaintiffs is not maintainable in the present form?OPD***
- 5. Whether the suit of the plaintiffs is bad for mis-joinder and non-joinder of necessary parties?OPD***
- 6. Whether plaintiffs have no locus standi and cause of action to file the present suit?OPD***
- 7. Whether the plaintiff has suppressed the true and material facts from the Court and has not come to the Court with clean hands?OPD***
- 8. Whether the suit of the plaintiff is liable to be returned as no notice under Section 80 of CPC was served upon the defendants?OPD***
- 9. Relief.”***

7. Parties led their respective evidence. The trial Court dismissed



the suit filed by the plaintiffs and the appeal preferred against the said judgment and decree was also dismissed by the first appellate Court leading to filing of the present second appeal.

8. I have heard learned counsel for the appellant.

9. Learned counsel for the appellant submits that the appellant is in possession of the suit property for the last 45 years. It has been submitted that the possession over the suit property was continuous and uninterrupted. Learned counsel submits that Gram Panchayat, Village Bajidpur had passed a resolution dated 26.10.1979 admitting the continuous possession of the appellant. Learned counsel submits that the defendants have no concern, whatsoever, with the suit property. He submits that both Courts have erred in dismissing the suit filed by the plaintiff. Reference has also been made to Ex.P1, Ex.P2, Ex.P4 and Ex.P5. Learned counsel has also referred to the entire oral and documentary evidence led on the record of the case. He submits that the judgments of the Courts 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.

11. A perusal of the record shows that plaintiff No.1 (Mukhtiar Singh) father of the present appellant had passed away during the pendency of the appeal. Admittedly, the appellant along with her father earlier also filed similar suits which were dismissed by both Courts. The appeals filed against those judgments were also dismissed by this Court. The possession of the suit property was taken over by the Gram Panchayat and the appellant and her father were evicted from the suit property through due process of law. PW1 (Mukhtiar Singh) in his cross-examination admitted the possession of the Gram Panchayat. The appellant had never laid any challenge to the same. Ex.P1 is stated to be a site plan but it was not proved on record. It was not



stated as to who had prepared the said plan. Ex.P2 is stated to be a copy of resolution dated 26.10.1979, the original of which was never produced. The originals of Ex.P4 and Ex.P5 had also not been produced by the appellant. Merely exhibiting a document does not mean that the appellant was owner of the suit property. No cogent evidence was led by the appellant to prove her ownership and possession over the suit the property. On the contrary, the defendants proved their case by leading cogent evidence. Ex.DY is the copy of order dated 27.05.2009 passed by the Collector, Rupnagar, vide which the plaintiffs were held to be in unauthorized possession of the suit property and were ordered to be evicted. In the considered opinion of this Court, both Courts committed no illegality in non-suiting the plaintiffs. This Court, therefore, finds that the submissions made by learned counsel for the appellant do not inspire any confidence.

12. The cumulative result of the discussion in the preceding paragraphs leads this Court to the conclusion that the present appeal is devoid of merit and the same is accordingly dismissed in *limine*.

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

(VIKRAM AGGARWAL)
JUDGE

August 20, 2025
vcgarg

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