



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

RSA No. 2509 of 2022 (O&M)

Date of Decision: 07.08.2025

Narinder Kaur Purewal

..... Appellant

Versus

Ajit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Krishan Singh Dadwal, Advocate with
Ms. Neha Jain, Advocate
for the appellant-plaintiff.

HARKESH MANUJA, J. (ORAL)

CM-8606-C-2022

Prayer in the present application moved on behalf of the applicant-appellant/plaintiff, is for condonation of delay of 90 days in re-filing the appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit of Sh. Vijay Kumar Sharma, Clerk, Office of learned counsel for applicant-appellant, sufficient cause has been made out to condone the delay in re-filing the appeal; the same is **allowed** and delay of 90 days in re-filing the appeal is condoned.

CM-8607-C-2022

Application is **allowed**, as prayed for, subject to all just exceptions. Exemption from filing the certified / typed copies of judgments and decrees dated 03.02.2017 & 25.01.2021 passed by the

Courts below, is granted.

MAIN CASE

By way of present appeal, challenge has been laid to the judgment and decree dated 25.01.2021 passed by the Court of learned District Judge, Hoshiarpur (**hereinafter to be referred as “First Appellate Court”**), whereby an appeal filed at the instance of appellant-plaintiff against the judgment and decree dated 03.02.2017 passed by the Court of learned Additional Civil Judge (Senior Division), Hoshiarpur (**hereinafter to be referred as “trial Court”**), dismissing the suit for declaration and permanent injunction, was dismissed; thereby affirming the judgment and decree passed by the learned trial Court.

[2] Briefly stating, the appellant-plaintiff (Narinder Kaur Purewal) filed a suit for declaration alleging that as per jamabandi for the year 2003-04, the land comprising in Khewat No. 117, Khatoni No. 218, Rect. No. 10, Khasra No. ½ (5-11), Khasra No. 2 (7-11), Khasra No. 9 (8-0), Khewat No. 117, Khatoni No. 217, Rect. No. 6, Khasra No. 14/3 (4-10), Khasra No. 15/3 (2-16), Khasra No. 17/1 (6-0), Rect. No. 9, Khasra No. 14 (9-0), Khasra No. 16/3 (0-16), Khasra No. 17 (8-0), Khasra No. 24 (8-0), Khasra No. 25/1 (3-4), Rect. No. 13, Khasra No. 7/3 (0-16), Khasra No. 14/1 (0-12), Khasra No. 14//4/1 (1-7), Khasra No. 109 (1-4), Khasra No. 115 (0-5), situated in HB No. 284 of the revenue estate of Village Jassowal, Tehsil Garhshankar, District Hoshiarpur, was joint between her and respondent Nos. 1 to 5-defendant Nos. 1 to 5. It was further alleged that the appellant-plaintiff was permanent resident of United Kingdom, as such she appointed Mohinder Singh son of Gurdial Singh and Gursharan

Singh Bains son of Naranjan Singh Bains as her general power of attorney to file the suit. It was also pleaded that at the back of appellant-plaintiff, defendant Nos. 1 to 5 got the suit property partitioned through the revenue authorities by giving her address of Village Jassowal, Tehsil Garhshankar, District Hoshiarpur, whereas she happens to be residing in England and thus, she challenged the partition orders passed by the revenue authorities , i.e. the order dated 15.05.2007 passed by the Tehsildar, Garhshankar; order dated 03.05.2008 passed by the SDM, Garhshankar; order dated 02.03.2010 passed by the Additional Financial Commissioner (Appeals), Jalandhar Division; and the order dated 28.07.2010 passed by the Financial Commissioner, Revenue, Chandigarh. Besides it, relief of mandatory injunction for directing the defendants to restore the possession of the suit property and permanent injunction for restraining defendant Nos. 1 to 5 from alienating the suit property was also sought. It was also alleged that no summons were ever served upon the appellant-plaintiff; the aforementioned orders were passed in violation of the principle of natural justice and Punjab Land Revenue Act, 1887; and the mutations of partition were sanctioned thereupon without any notice to her; hence the possession was liable to be restored. It was further alleged that the appellant-plaintiff came to know about the above orders on 15.02.2011 and thereafter, she immediately sent power of attorney to Mohinder Singh and Gursharan Singh Bains; notice under Section 80 CPC was also served upon the State of Punjab but to no effect, hence the suit was filed.

[3] Upon notice, respondent Nos. 1, 2 & 6 failed to appear in the Court despite service and they were proceeded against ex parte vide order

dated 04.02.2012. Respondent Nos. 3 to 5-defendant Nos. 3 to 5 contested the suit taking preliminary objections that the suit being barred under Punjab Land Revenue Act, 1887, was not maintainable; the suit was filed in collusion with respondent Nos. 1 & 2-defendant Nos. 1 & 2 as the appellant-plaintiff was brother's wife (Bhabhi) of defendant No. 1-Ajit Singh and aunt of defendant No. 2-Balbir Singh; and no proper notice had been issued under Section 80 of CPC upon official respondents-defendant Nos. 7 to 10. Defendant Nos. 3 to 5 denied all the averments of plaint and lastly it was prayed that the suit of the appellant-plaintiff be dismissed with costs.

[4] Official respondents-defendant Nos. 7 to 10 filed their joint written statement while denying the averments of plaint.

[5] Replication controverting the averments made in the written statement was filed. On the basis of pleadings of the parties, the trial Court framed the following issues:-

- “1. Whether the plaintiff is entitled for the relief of declaration as prayed for? OPP*
- 2. Whether the plaintiff is entitled for relief of permanent injunction as prayed for? OPP*
- 3. Whether the jurisdiction of Civil Court is barred in the provision of Punjab Land Revenue Act? OPD*
- 4. Whether the suit of the plaintiff is not maintainable in the present form? OPD*
- 5. Whether the plaintiff is estopped from filing the present suit by her own act and conduct? OPD*
- 6. Whether the suit is bad for joinder of defendants no. 7 to 10? OPD*
- 7. Whether the suit has been filed in collusion with defendants no. 1 and 2? OPD*

8. *Relief.* ”

[6] The trial Court, vide its judgment and decree dated 03.02.2017, dismissed the suit of the appellant-plaintiff with costs while deciding Issue Nos. 1 and 2 against her; whereas Issue Nos. 3 to 7 were answered against the defendants as being not pressed.

[7] Aggrieved thereof, the appellant-plaintiff filed the first appeal, which also came to be dismissed with costs vide judgment and decree dated 25.01.2021 passed by the First Appellate Court. Hence, the present appeal.

[8] Impugning the aforementioned judgments and decrees dated 03.02.20217 and 25.01.2021, learned counsel for the appellant-plaintiff submits that the orders passed by the official respondents on the partition proceedings initiated at the instance of defendant Nos. 1 & 2 were liable to be declared as illegal, null and void, as the appellant-plaintiff was never ever served in those proceedings as she was living abroad; whereas in the partition proceedings, her address was mentioned as that of Village Jassowal, Tehsil Garhshankar, District Hoshiarpur. He further submits that even as per the records of the partition proceedings, once the appellant-plaintiff was not served with the notices in the ordinary manner, *munadi* was only made in the village and thus, the whole proceedings were vitiated. He also points out that once it came on the record that the appellant-plaintiff was living abroad, an effort was required to be made by the revenue authorities to serve her upon the said address; rather than carrying out *munadi* in the village.

No other argument has been raised on behalf of the appellant-plaintiff.

[9] After hearing learned counsel for the appellant and having gone through the paper-book / records, I am unable to find substance in the submission(s) made on behalf of the appellant-plaintiff.

[10] In the present case, from the records it can be discerned that the partition proceedings which culminated into the orders dated 15.05.2007 passed by the Tehsil Garhshankar; order dated 03.05.2008 passed by the SDM Garhshankar; order dated 02.03.2010 passed by the Additional Commissioner (Appeal), Jalandhar Division, Jalandhar; and the order dated 28.07.2010 passed by the Financial Commissioner, Revenue, Chandigarh, were initiated at the instance of respondent Nos. 1 & 2-defendant Nos. 1 & 2 herein, who as per the admission made by PW-1 (Mohinder Singh) i.e. power of attorney holder of the appellant-plaintiff were her brother-in-law and nephew and were in cultivating possession of the land having fallen even to the share of the appellant-plaintiff in the aforementioned partition proceedings. In such circumstances, undoubtedly the present suit was a result of collusion between the appellant-plaintiff and respondent Nos. 1 & 2-defendant Nos. 1 & 2 who in the present case even chose not to contest the suit. In fact, the appellant-plaintiff has filed the present suit apparently as proxy litigation on behalf of respondent Nos. 1 & 2-defendant Nos.1 & 2 herein just to upset the settled partition proceedings which stood finalized wayback in the year 2010.

[10.1] The appellant-plaintiff did not even chose to appear before the trial Court so as to depose that she was having no knowledge about the

partition proceedings being carried out at the instance of respondent Nos.1 & 2 / defendant Nos. 1 & 2, who happen to be her brother-in-law and nephew, especially when all the three were living at the same place in England only and respondent Nos. 1 & 2 / defendant Nos. 1 & 2 were in cultivating possession of the land, which had fallen to the share of the appellant-plaintiff. Therefore, adverse inference needs to be drawn against the appellant-plaintiff on the aspect that she being unaware of the filing and pendency of partition proceedings in the given facts.

[10.2] Also, the collusion of the appellant-plaintiff and respondent Nos. 1 & 2 / defendant Nos. 1 & 2 is clearly established on record from the facts that the appellant-plaintiff as well as defendant Nos. 1 & 2 have all been living in England and are closely related to each other, yet defendant Nos. 1 & 2 at the time to filing of partition proceedings, while impleading the appellant-plaintiff as opposite party No. 4 gave her address of Village Jassowal, Tehsil Garhshankar, District Hoshiarpur.

[10.3] Moreover, in the given facts, there being no evidence available on record to establish any kind of prejudice been caused to the appellant-plaintiff, especially when the appellant-plaintiff alongwith respondent Nos. 1 & 2 / defendant Nos. 1 & 2 have allotted the same land under partition which they were earlier cultivating, no interference is called for with the impugned judgments and decrees passed by the Courts below which were even otherwise vested with very limited jurisdiction to interfere with the partition proceedings finalized by the revenue authorities; primarily only to upset the same on the ground of violation of natural justice or being in utter disregard of some statutory provision.

[11] Accordingly, in view of the discussion made hereinabove, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below and there being no misreading or misinterpretation of either the pleadings or the evidence available on record; the present appeal, being devoid of merits, is hereby **dismissed**.

[12] Before parting with this order, it may be noticed here that when the present suit was filed in apparent collusion between the appellant-plaintiff and respondent Nos. 1 & 2 / defendant Nos. 1 & 2 only to harass the other defendants, out of whom four happen to be the official respondents, in the considered opinion of this Court, the appellant-plaintiff having wasted the precious time of the Court, is saddled with cost of Rs.20,000/- (Twenty Thousand only); out of which, Rs. 10,000 be deposited in High Court Legal Services Committee, Punjab & Haryana High Court, Chandigarh; and Rs. 10,000/- be deposited in Haryana State Legal Services Authority, within one month from the date of receipt of certified copy of this order.

[13] It is made clear that in case the costs are not deposited, the District Magistrate, Hoshiarpur, shall be at liberty to recover the same as arrears of land revenue from the appellant-plaintiff.

[14] Since, the main appeal has been decided / dismissed, no orders are required to be passed in the pending application(s) and the same shall stand disposed off.

August 07, 2025

'dk kamra'

**(HARKESH MANUJA)
JUDGE**

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