



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

RSA-2152-2022(O&M)

Date of decision : 29.01.2025

Mehar Chand & ors.

..... Appellants

versus

Wazir Chand & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Amit Jaswal, Advocate
for the appellants.

PANKAJ JAIN, J. (ORAL)

CM-7344-C-2022

This is an application seeking condonation of delay of 198 days in filing the present appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant-appellant has shown sufficient cause to condone the delay in filing the appeal.

Application is allowed. Delay of 198 days in filing the appeal is condoned.

RSA-2152-2022

1 Appellants-Plaintiffs No.1, 5 & 6 are in appeal aggrieved of judgment and decree passed by Lower Appellate Court dated 16.08.2019 whereby judgment and decree passed by Trial Court dated 11.02.2015 stands affirmed dismissing the suit filed by the plaintiffs. For convenience, parties hereinafter are referred to by their original position in the suit, i.e. the



appellants as plaintiffs No.1, 5 & 6 and the contesting respondents as defendants.

2 Plaintiffs filed suit claiming that they along with defendants are co-sharers in joint possession of the suit land having inherited share of Karnail Ram, deceased son of Hans Raj @ Hansa Ram. Further prayer was for grant of decree of permanent injunction restraining defendants from selling, mortgaging, transferring or alienating the said suit property in any manner. Plaintiffs claimed that the suit land is ancestral coparcenary property of the parties. Karnail Ram son of Hans Raj @ Hansa Ram was brother of plaintiffs No.1 to 4, Mangat Ram father of plaintiffs No.5 to 8 and Raunki Ram father of defendants. Karnail Ram died issueless on 10.11.2007. Mangat Ram and Raunki Ram had also died. Defendants claimed their right and title over the share of Karnail Ram on the basis of a forged and fictitious WILL dated 18.11.2004. Defendants contested the suit propounding WILL dated 18.11.2004. Trial Court decreed the suit holding that the defendants successfully proved WILL (Ex.D7) executed by Karnail Ram in their favour. The aforesaid findings have been affirmed by the Lower Appellate Court.

3 I have heard learned counsel for the plaintiffs and have gone through records of the case.

4 The issue involved relates to legality and proof of WILL propounded by the defendants. Though plaintiffs claimed that the property in question is a coparcenary property. However, there is no evidence regarding same. Counsel for the plaintiffs wants to rely upon admission made by an attesting witness to the WILL, which is of no consequence as



plaintiff-Mehar Chand while appearing as PW-2 admitted that Karnail Ram was competent to deal with his land in a manner as per his desire. Thus there being no evidence regarding the land being coparcenary, competence of Karnail Ram to execute WILL is upheld.

5 Coming on to the findings recorded by the Courts below with respect to valid execution of the WILL, one Ram Kumar, the attesting witness to the WILL was examined as DW1. He fully proved execution of WILL in terms of Section 63 (c) of the Indian Succession Act, 1925. Registration Clerk Darshan Singh has been examined as DW2 who proved registration of WILL. The plaintiffs in order to prove jointness to Karnail Ram relied upon certified copy of registration certificate of tractor bearing registration No.PB-11N-3598 and mortgage deed Ex.P-2 to show that the same was jointly owned and possessed by Karnail Ram and Mehar Chand. However, none of these documents shows that the property in question was coparcenary property or that Karnail Ram was not competent to execute WILL.

6 The WILL having been fully proved and competence of Karnail Ram being not in dispute, this Court finds that the Courts below have rightly dismissed the suit filed by the plaintiffs relying upon WILL propounded by the defendants.

7 Learned counsel for the plaintiffs has not been able to point out any evidence on record which was ignored by the Courts below.

8 Finding no merits in the present appeal, the same is ordered to be dismissed.



5 Pending application, if any, also stands disposed off.

29.01.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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