**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****249****RSA-1930-2024 (O&M)****Date of decision: 15.09.2025****Rohtash****...Appellant(s)****Vs.****Chiranji and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Shashikant Gupta, Advocate
for the appellant.

NIDHI GUPTA, J.**CM-7684-C-2024**

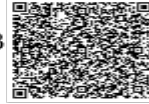
Prayer in this application filed under Section 5 of Limitation Act is for condonation of delay of 130 days in filing the accompanying appeal.

2. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant the same is allowed and delay of 130 days in filing the appeal is condoned.

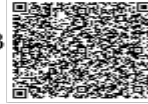
RSA-1930-2024 (O&M)

Present second appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below; whereby the suit filed by the appellant for declaration and permanent injunction, has been dismissed with costs by both the Courts below.

2. It is the case of the plaintiff/appellant that the plaintiff and defendants are co-sharers of joint suit property, which has not yet been partitioned. Plaintiff claimed that partition proceedings were conducted



vide order dated 08.04.2010; and Naksha Bay was confirmed vide order dated 16.04.2009; and Sanad Taksim/document of partition, was issued on 01.01.2014. By way of the present suit, a declaration was sought that the said proceedings are void and illegal as Gair Mumkin Land as described in the plaint, had also been partitioned by the Assistant Collector First Grade vide the said orders. It was averred that the Assistant Collector had no authority to partition Gair Mumkin Land. It was further averred that despite the fact that ad interim stay dated 11.05.2004 had been issued in the presence of Assistant Collector Second Grade Tehsil Ateli in Civil Suit No. 189 RT of 2004/2011 titled as **Rohtash vs. Surender**, yet, Assistant Collector Second Grade had prepared Naksha Bay of the Gair Mumkin Land and had got partitioned the same by issuing Sanad Taksim. Moreover, no notice was given to the plaintiff at the time of preparing Naksha Bay nor any notice of demarcation of land was given to the plaintiff. The plaintiff further asserted exclusive possession over certain killa numbers where he had constructed houses and planted valuable trees. However, these facts were ignored in the partition proceedings. The said Civil Suit No. 189 of 2004/2011 was decreed on 20.12.2011 directing that Gair Mumkin Land could not be included in partition proceedings. Appeal against the said Civil Suit was later withdrawn by the defendants on 22.07.2014 after a compromise was affected between the parties. Plaintiff had challenged the Naksha Bay before the Collector, which was dismissed in default on 11.07.2013 and the restoration against the same was pending. However, in the meantime,

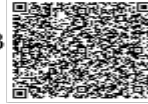


defendants got prepared the Sanad Taksim dated 01.01.2014 since there was no appeal pending against the Naksha Bay. With these pleadings, present suit was instituted on 05.02.2015.

3. Vide judgment and decree dated 26.07.2018 passed by the Ld. Civil Court, suit of the appellant was dismissed. The appeal filed by the appellant was also dismissed by the learned Additional District, Narnaul vide judgment and decree dated 22.12.2023. Hence, present Second Appeal by the plaintiff.

4. It is *inter alia* submitted by learned counsel for the appellant that while dismissing the suit, learned Courts below failed to appreciate the fact that if any order of revenue authorities during partition of agricultural land was against natural justice or the Certificate of Partition is issued by prejudicing the rights of any person, then only Ld. Civil Court has got jurisdiction.

5. It is submitted that both the Courts below also failed to appreciate that the entire partition proceedings and judgment and decree dated 20.12.2011 passed by the Ld. Civil Court has been passed by ignoring Exhibit P-6 and P-7 and defendant No. 15 was specifically restrained by giving direction that gair mumkin house is involved in the land in dispute. Hence, Revenue Court has no jurisdiction to conduct partition; whereas the AC IInd Grade issued certificate of partition in which gair mumkin land has been wrongly shown to be partitioned so the entire proceeding is totally wrong illegal by ignoring actual position at the spot.



6. It is further submitted that both the Courts below failed to appreciate the fact that the respondent No. 1 while appearing as DW-1 has admitted that Rohtash had filed a civil suit before Ld. Civil Court regarding not to conduct partition of gair mumkin property and it is further admitted that the respondent No.1 and Tehsildar were party in said suit. It is further admitted by the respondent No.1 that he filed appeal dated 20.12.2011 before the Appellate Court and same was withdrawn by him on 22.07.2014. He further admitted that the 10 Marla land in Mustil No. 17//4 (8-0) is gair mumkin Chahi land and further stated that the land which was partitioned in Ateli in which gair mumkin land was not included and he further admitted in his cross-examination that he was not in possession of the land situated at Rewari road and admitted also that the after land consolidation, appellant is in possession of the land situated at Rewari Road and he constructed his house on the above land. It is contended that, however, all of the above said facts and evidence have been ignored by the learned Courts below. It is accordingly prayed that the present second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

7. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions made on behalf of the appellant.

8. There can be no dispute that once partition has taken place, jurisdiction of Civil Court is barred under Section 158 of the Punjab Land Revenue Act (hereinafter referred to as "Act"). Admittedly, in the present

case, the plaintiff has sought a declaration for setting aside partition proceedings dated 08.04.2010; confirmation of Naksha Bay dated 16.04.2009; and issuance of Sanad Taksim dated 01.01.2014. It has been settled by way of numerous judgments referred to by the learned Trial Court in para 13 of its judgment dated 26.07.2018 that the Punjab Land Revenue Act does not envisage an appeal against preparation of Sanad Taksim. Any aggrieved party can invoke jurisdiction of this Court under Article 226/227 of Constitution of India. Alternatively, a Revision Petition before the Financial Commissioner under Section 16 of the Act can be filed. It cannot be disputed that after finalisation of partition proceedings, jurisdiction of Civil Court to entertain the suit challenging said proceedings is barred.

9. Learned counsel for the appellant/plaintiff is unable to controvert or dispute the above said legal position.

10. Hence, present Regular Second Appeal is hereby **dismissed**.

11. Pending applications, if any, stand disposed of.

15.09.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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