



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209

RSA-1603-2013 (O&M)

Date of decision: 28.10.2025

Tej Kaur

...Appellant(s)

Vs.

Darshan Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. P.K.S.Phoolka, Advocate for the appellant.

Mr. Parminder Singh-I, Advocate for
respondents No. 1 to 3 and 5.

NIDHI GUPTA, J.

CM-4253-C-2013

Prayer in this application filed under Section 151 CPC is for
condonation of delay of 566 days in refiling the appeal.

2. The reason cited by learned counsel for the applicant/appellant
in the abovesaid application is vague and does not constitute sufficient
cause to condone extraordinary delay of 566 days in refiling the present
appeal. It is cardinal principle of law that delay of each day has to be
explained. In this regard, reliance may also be placed upon recent judgment
of the Hon'ble Supreme Court in **Civil Appeal No. 11794 of 2025** titled as
Shivamma (Dead) by LRs Vs. Karnataka Housing Board and others, 2025
INSC 1104 decided on 12.09.2025.



3. As such, no ground is made out for condoning inordinate delay of 566 days. Present application accordingly stands **dismissed**.

CM-4254-C-2013

Prayer in this application filed under Section 5 of Limitation Act read with Section 151 CPC is for condonation of delay of 14 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 14 days in filing the appeal is condoned.

RSA-1603-2013 (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 plaintiff for declaration to the effect that plaintiff is owner in possession of 1/16th share of suit land; **and** the registered Will No. 560 dated 18.02.2002 executed by Mohinder Singh, father of the plaintiff in favour of defendant No.1/brother of the plaintiff is illegal, null and void and not binding on the rights of the plaintiff; **and** mutation No. 29406 sanctioned by A.C. IInd Grade, Mansa on the basis of said Will is liable to be set aside; **and** the Sale Deed No. 2777 dated 18.07.2003 executed by defendant No.2 in favour of defendants No. 7 and 8 in equal shares in respect of plot measuring 9 Marlas out of suit land; **and** Sale Deed No. 2778 dated 18.07.2003 executed by defendant No.2 in favour of defendant No. 6 in respect of suit land measuring 9 Marlas out of suit land; **and** mutation Nos. 30408 and 30407 sanctioned on the basis



of above said Sale Deeds are illegal, null and void; **and** suit for possession of the above said land as consequential relief; **and** suit for permanent injunction restraining the defendants No.1 to 3 from alienating part of above said suit land, has been dismissed by both the Courts below.

2. At the very outset, it may be first be pointed out that notice in the main appeal is yet to be issued. Vide order dated 25.09.2014, notice was issued by a Predecessor Bench, only in the above said applications for condonation of delay. Perusal of the order sheets shows that thereafter the matter has been adjourned on most dates either due to non-appearance of, or on request made by learned counsel for the appellant on one ground or the other. At this stage, it is also informed by learned counsel for the appellant that the appellant has expired on 15.05.2021; and application for impleading LR's of the appellant was filed only on 06.08.2024. It is my view that the present Second Appeal deserves to be dismissed on these short grounds itself as no ground is made out to entertain the present appeal 12 years after its filing.

3. Even on merits, no ground is made out to entertain the present Second Appeal.

4. Brief facts of the case are that Mohinder Singh, father of the appellant had died on 21.02.2002 leaving behind appellant as his only daughter, respondent No.1 as his son. The respondents No. 2 and 3 are the sons of Suraj Singh/ who is predeceased son of Mohinder Singh. Respondent No.4 is the widow of predeceased son Suraj Singh. Defendant No.3 was the widow of Mohinder Singh, who is also since deceased.



5. The record reveals that it is the case of the appellant that upon demise of Mohinder Singh, she became owner in possession of 1/4th share in the estate of deceased Mohinder Singh on the basis of natural succession. To the contrary, it was the case of the defendants that Mohinder Singh during his lifetime and with his free Will and sound disposing mind had executed a Registered Will No. 560 dated 18.02.2002 bequeathing his estate in favour of defendant No.1 to 3.

6. It is submitted by learned counsel for the appellant that the said Will is forged and fabricated document and was never executed by deceased Mohinder Singh. It is contended that no reason is given in the impugned Will by the Testator Mohinder Singh for excluding his daughter/the present appellant. Moreover, the Will is proved to be forged and fabricated document as the same is thumb marked twice. No explanation has been given by the respondents in this regard. Even further, Mutation No. 29406 dated 30.09.2002 has been got sanctioned by defendants No.1 to 3 at the back of the appellant in their favour for their respective shares on the basis of above said forged and fabricated Will in connivance with the revenue officials. Accordingly, Sale Deeds executed on the basis of said Mutations in favour of the other respondents cannot be sustained. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

7. Learned counsel for respondents No. 1 to 3 and 5 vehemently opposes submissions made on behalf of the appellant and submits that



the judgments and decrees of the learned Courts below suffer from no error. He accordingly prays for dismissal of the present appeal.

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

9. The learned Courts below have given concurrent findings of fact to the effect that genuineness of the Will dated 14.02.2002 registered on 18.02.2002 is established beyond any doubt. Execution of the said Will has been proved by the evidence of attesting witness Surjit Singh, and Scribe of the Will Kesar Singh. These two witnesses have stated that Mohinder Singh was mentally fit and had executed the Will with his free volition. Merely because Mohinder Singh was taken to the hospital for treatment and was admitted from 14.02.2002 till 18.02.2002, would not in any manner indicate that he was not in sound disposing mind. The same cannot in any manner be taken as an indication that his mental health was not fit to get the Will executed. Moreover, any document presented to the Sub Registrar is registered only after due enquiry and finding that Executant is in sound disposing mind. Plaintiff has also been unable to prove that thumb impressions on the Will is not of the Executant Mohinder Singh. On the other hand, witnesses examined by the defendants have proved the thumb impressions of Mohinder Singh. Plaintiff has also been unable to prove that thumb impressions of the deceased was obtained on a blank paper on some pretext. The statement of the plaintiff that thumb impressions of the deceased was obtained on

blank papers under some pretext would only indicate that plaintiff has admitted that Mohinder Singh used to put his thumb impressions also. Although plaintiff has claimed that Will is surrounded in suspicious circumstances, however, she has failed to describe and plead the same in her plaint, let alone prove the same. Plaintiff has also failed to cross-examine the beneficiary of the Will. Consequentially, the mutations No. 29406, 30408, 30407 and the Sale Deeds No. 2777 and 2778 executed on the basis of the said Will are legal.

10. Learned counsel for the appellant is unable to controvert or dispute the above said concurrent facts and findings.

11. The present Regular Second Appeal is accordingly **dismissed** on merits, as well as on grounds of delay.

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

28.10.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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