

2025:PHHC:089412



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

**RSA No. 1235 of 2021 (O&M)
Reserved on: 09.07.2025
Pronounced On: 21.07.2025**

Charanjit Singh, aged about 42 years, son of Gurmukh Singh, resident of Village Lohgarh, Tehsil Baba Bakala, District Amritsar

..... Appellant

Versus

Dalbir Kaur wife of Charanjit Singh daughter of Gurdip Singh, resident of VPO Bundala, Tehsil and District Amritsar.

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Argued By:- Ms. Bhavya Gupta, Advocate for
Mr. Ashish Aggarwal, Advocate
for the appellant-plaintiff.

HARKESH MANUJA, J.

CM-5176-C-2021

Prayer in the present application moved on behalf of the applicant-appellants/plaintiff, is for condonation of delay of 17 days in re-filing the appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit of the learned counsel for applicant-appellant, sufficient cause has been made out to condone the delay in re-filing the appeal; thus, the same is **allowed** and delay of 17 days in re-filing the appeal is condoned.

MAIN CASE

By way of present appeal, challenge has been laid to the judgment and decree dated 03.08.2019 passed by the Court of District

Judge, Amritsar (**hereinafter to be referred as “First Appellate Court”**), whereby an appeal filed at the instance of appellant-plaintiff against the judgment and decree dated 24.01.2018 passed by the Court of Civil Judge (Junior Division), Amritsar (**hereinafter to be referred as “trial Court”**), dismissing the suit for declaration and permanent injunction, instituted at the instance of appellant-plaintiff, was dismissed; thereby affirming the judgment and decree passed by the trial Court.

[2] Briefly stating, the appellant-plaintiff filed a suit for declaration to the effect that agreement dated 01.07.2013 in respect of property i.e. double-storey house situated at Sheikhupura, Jandiala Guru, Amritsar was illegal, null and void and further declaration to the effect that the appellant was owner in possession of the suit property and was, therefore, entitled for consequential relief of permanent injunction, thereby restraining the respondent-defendant from interfering into the peaceful possession of appellant-plaintiff and also restraining the defendant(s) from dispossessing the appellant-plaintiff forcibly and illegally. Appellant-plaintiff pleaded that he joined as Sepoy in the Indian Army on 23.12.1995; got married with respondent-defendant (Dalbir Kaur) on 20.12.1998 and out of this wedlock, two children namely Navroop Singh and Sukhmanpreet Singh were born on 01.02.2000 and 03.06.2005 respectively, who were living under the care and custody of their mother/respondent-defendant. It was further pleaded that the appellant-plaintiff retired from Indian Army on 30.04.2013 and thereafter, by virtue of agreement dated 01.07.2013, appellant-plaintiff purchased the house in dispute in the name of his wife-Dalbir Kaur (respondent-defendant) by

making payment of entire sale consideration out of his pensionary benefits. It was also pleaded that later, respondent-defendant (Dalbir Kaur) started ill-treating him and then left the company of the appellant-plaintiff without any reason and started living with her parents. Appellant-plaintiff further pleaded that he being the owner of the suit property was residing in the said house, however, the respondent-defendant (Dalbir Kaur) started claiming her ownership over the suit property and threatened to dispossess the appellant-plaintiff from there. Hence, the suit was filed.

[2.1] Upon notice, respondent-defendant (Dalbir Kaur) appeared and filed written statement, taking preliminary objections that the suit was not maintainable. She pleaded that the house in dispute was exclusively owned and purchased by her by virtue of an agreement, which was executed in her favour by the vendor. It was denied that the house in question was purchased by the appellant-plaintiff from his pensionary benefits. She further pleaded that appellant-plaintiff used to ill-treat and beat her; as a result of which she left the company of appellant-plaintiff. All other factual aspects were denied and lastly it was prayed that the suit of the appellant-plaintiff be dismissed with costs.

[3] Publication against defendant No. 2-General Public was effected through newspaper-Chardikala, but no one appeared on its behalf and as such, defendant No. 2 was proceeded against *ex parte* by the trial Court vide order dated 19.01.2015.

[4] 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 relief suit of declaration as prayed for? OPP*
- 2. Whether the plaintiff is entitled for relief of permanent injunction as prayed for? OPP*
- 3. Whether the plaintiff suit is not maintainable? OPD*
- 4. Whether the plaintiff has no cause of action to file the present suit? OPD*
- 5. Whether the plaintiff is estopped by his own act and conduct to file the present suit? OPD*
- 6. Whether the plaintiff has not come to the Court with clean hands to file the present suit? OPD*
- 7. Whether the suit has not been properly valued for the purpose of Court fee and jurisdiction? OPD*
- 8. Relief. ”*

[5] The trial Court, vide its judgment and decree dated 24.01.2018, dismissed the suit, filed at the instance of appellant-plaintiff, while deciding Issue Nos. 1 and 2 against the appellant-plaintiff; whereas Issue Nos. 3 to 7 were not pressed by the respondents-defendants and the same were decided against the defendants and in favour of the plaintiff.

[6] Aggrieved thereof, the appellant-plaintiff filed the first appeal, which also came to be dismissed vide judgment and decree dated 03.08.2019 passed by the First Appellate Court. Hence, the present appeal.

[7] Impugning the aforesaid judgments and decrees dated 24.01.2018 and 03.08.2019, learned counsel for the appellant-plaintiff has submitted that the respondent-defendant (Dalbir Kaur) was having no source of income to pay a huge amount of Rs. 18,50,000/- for purchasing the property in dispute, however, both the Courts below without considering this aspect, dismissed the suit of the appellant-plaintiff. He

further contended that the suit property was purchased by the appellant-plaintiff from his own funds after withdrawing the same from Bank and this evidence was never considered by the Courts below.

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

[8] 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.

[9] In the present case, appellant-plaintiff has failed to prove any documentary evidence showing his ownership over the suit property. It is not disputed that the agreement to sell was executed on 01.07.2013 in respect of the suit property i.e. double-storey house situated at Sheikhpura, Jandiala Guru, Amritsar, i.e. after two months of retirement of appellant-plaintiff from the Indian Army on 30.04.2013. As per the case set up by the appellant-plaintiff, due to the love and affection with his wife-respondent, he purchased the suit property in her name by making payment of sale consideration from his pensionary benefits, however, he failed to produce any bank statement to prove that at the time of execution of the aforesaid agreement dated 01.07.2013, the amount of sale consideration was withdrawn from his bank account. Even the appellant-plaintiff failed to produce any document to prove his possession over the suit property. Furthermore, the original of agreement to sell dated 01.07.2023 was never produced on record.

[10] 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**.

[11] 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.

July 21, 2025
'dk kamra'

(HARKESH MANUJA)
JUDGE

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