



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

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**RSA-107-2022 (O&M)
Date of decision : 20.03.2025**

Randhir Singh (since deceased) through his LRs Appellant

versus

Mahender and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Jitender Nara, Advocate
for the appellant.

PANKAJ JAIN, J. (Oral)

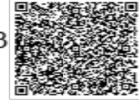
CM-240-C-2022

This is an application for condonation of delay of 35 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed. Delay of 35 days in re-filing the appeal stands condoned.

Main case

1. Plaintiff is in second appeal.
2. Suit was filed by the predecessor-in-interest of appellant namely, Randhir Singh claiming himself to be exclusive owner in possession over the suit property as detailed out in the plaint. Plaintiff claimed that defendants forcibly and illegally encroached upon part of the suit land and are trying to raise construction. Plaintiff accordingly prayed for decree of declaration with the consequential relief of mandatory injunction and possession.



3. Suit was contested by the defendants. As per the defendants, plaintiff and his father Shri Kehri had constructed a residential house over plot No.190/30/3 measuring 300 sq. yds in lieu of plot No.199/30/1. There was family arrangements between predecessors-in-interest of the plaintiff and those of defendants. Father of defendants constructed house over plot No.199/30/1 min south measuring 150 sq. yds. i.e. 5 marlas. The parties to the family settlement are in possession of their respective shares. The plaintiff is neither owner, nor in possession of the suit property as claimed. Residential house/open yard of the plaintiff is over land bearing plot No.199/30/1. The courtyard of defendants is surrounded by four walls and is over plot No.199/30/1 min south measuring 5 marlas and over plot No.199/28 min south measuring 5 marlas. Family arrangement came into being in the year 1975. The land claimed by the plaintiff to have been encroached by the defendants belongs to the defendants. They are constructing their house afresh after demolishing the old construction.

4. Plaintiff in order to prove his case relied upon Ex.P-1 to P-3 to show that the suit land vests in him. Courts below found that though as per Ex.P-1 i.e. jamabadi for the year 2011-12, the appellant-plaintiff Randhir Singh has been recorded as owner in possession of the suit property i.e. plot No.199/30/1. However, while appearing as PW-3, he admitted that Jaivir, Azad Singh and Wazir Singh constructed their houses over plot No.199/28 min about 40-45 years ago. He further admitted that Jaivir constructed his house over plot No.190/30/1. He also admitted that father of defendants raised construction over land



measuring 5 marlas over the suit land. He also admitted that he himself constructed his house in the year 1996 over plot No.199/30/3. He admitted that a family settlement dated 20.01.1975 was reduced into writing and the parties on partition came in possession of their respective shares. Both the Courts below thus, found that the presumption attached to the record of right relied upon by the plaintiff stands rebutted by his own statement and dismissed the suit filed by the plaintiff.

5. Mr. Nara though has reiterated that in the revenue record, the plaintiff has been recorded as owner, but could not dispute that as per statement of plaintiff himself while appearing as PW-3, family settlement between parties in the year 1975 stands proved and as per the admission made by the plaintiff himself, all the parties to the family settlement are in their respective shares to the exclusion of the others.

6. In view of above, this Court finds that pure finding of fact recorded by the Courts below based upon proper appreciation of the evidence on record does not call for any interference. Second appeal preferred by the appellant, is thus, ordered to be dismissed.

7. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

20.03.2025

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Whether speaking/reasoned : Yes

Whether Reportable : No