**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****103****RSA-3324-2017 (O&M)
Date of decision: 19.03.2025****Jatinder Kaur****...Appellant(s)****Vs.****Parkash Kaur****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Amandeep Singh Jawandha, Advocate
for the appellant.

NIDHI GUPTA, J.**CM-8074-C-2017**

Prayer in this application filed under Section 151 CPC is for condonation of delay of 340 days in refiling the accompanying appeal.

The only reason cited by learned counsel for the applicant/appellant in the application seeking condonation of delay of 340 days is that *"the paper books of the appeal was inadvertently tagged by the clerk in a decided case and were not traceable. Now the papers books have been traced and complete appeal is being filed. However, in this process a delay of 340 days has occurred."*

The said reason cited in the application is vague and general. No dates have been mentioned as to when paper book of the appeal was lost, and on which date the same was traced. The same does not constitute sufficient ground for condonation of extraordinary and inordinate delay of 340 days.



Hence, the present application is dismissed.

RSA-3324-2017(O&M)

The plaintiff is in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit filed by the plaintiff for declaration to the effect that the plaintiff is owner in possession of the suit land measuring 47 kanal 6-1/2 marlas which is the half share out of land measuring 94 kanal 13-1/2 marlas out of total land measuring 189 kanal 7 marlas; and consequential relief of permanent injunction, has been dismissed by both the Courts below.

2. At the very outset, it may first be pointed out that the present second appeal is of the year 2017; and notice has not yet been issued in the same as the matter has been repeatedly adjourned for 8 years either at the request of or due to non-appearance of the learned counsel for the appellant on 31.07.2017, 26.07.2018, 30.08.2018, 09.10.2023, 19.10.2023, 02.02.2024, 02.07.2024 and 07.11.2024.

3. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant is the 'plaintiff'; and the respondent is the 'defendant'.

4. Learned counsel for the plaintiff *inter alia* submits that the learned Courts below are in patent error in non-suiting the plaintiff as it is an admitted fact on record that the plaintiff was married to Dilraj Singh son of the defendant/Prakash Kaur, on 17.12.2003. Unfortunately, Dilraj Singh had died during the subsistence of marriage of the plaintiff in 2005. As such, the plaintiff, being his widow, had filed the present suit claiming that the



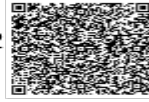
land measuring 189 kanal 7 marlas owned by her father-in-law Kishan Singh had devolved upon her late husband Dilraj Singh, and the defendant Parkash Kaur who is widow of Kishan Singh; and the appellant claimed herself to be owner in possession of land measuring 47 kanal 6-1/2 marlas.

5. It is submitted that the plaintiff had duly proved her case by leading cogent and comprehensive oral and documentary evidence. In fact, even DW2 Jagbir Singh Nambardar of the village had proved that the plaintiff was married to Dilraj Singh son of the defendant. As such, learned Courts below were in error in holding that the plaintiff was never married to Dilraj Singh. It is accordingly prayed that the present appeal be allowed; and the judgments and decrees of the learned Courts below be set aside.

6. No other argument is raised on behalf of the appellant/plaintiff.

7. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

8. I find no merit in the contentions raised by learned counsel for the appellant/plaintiff. It is the claim of the plaintiff that the suit land measuring 94 kanal 13-1/2 marlas out of total land measuring 189 kanal 7 marlas was ancestral in nature and coparcenary property in the hands of Kishan Singh. Kishan Singh had died in the year 2001. Dilraj Singh was the son and Parkash Kaur was the widow of Kishan Singh. As such, the land was divided equally between Dilraj Singh and defendant Parkash Kaur. Dilraj Singh died in 2005. The plaintiff has laid claim to the share of Dilraj Singh being his widow.



9. However, the claim of the plaintiff is dubious as it was not proven on record that she was ever married to Dilraj Singh. DW2 Jagbir Singh Nambardar of the village, who tendered his affidavit Ex.DW2/A has categorically deposed that the plaintiff was not married to Dilraj Singh; that she is not widow of Dilraj Singh, nor she ever resided with Dilraj Singh. In support of her claim, the plaintiff had produced documents Mark-B/copy of certificate of Gurdwara Sri Bauli Sahib Pathshahi Shevi, Nadala, District Kapurthala; and Mark-C/page No. 28 of the register of above said Gurdwara Sahib, to show that she was married to Dilraj Singh. However, admittedly the said documents were not proven in accordance with law as the plaintiff had failed to examine the concerned persons to prove documents Mark-B and Mark-C. As such, the claim of the plaintiff that she was married to Dilraj Singh, was not established. Therefore, the plaintiff cannot be said to have any connection with the suit land.

10. Moreover, the plaintiff has admitted in her cross-examination as PW1 that the suit land is exclusively in the name of defendant Parkash Kaur; and that Parkash Kaur is exclusively receiving rent of land in her name and in the name of Kishan Singh; and that land in the name of Kishan Singh had not been mutated in the name of his legal heirs. Even DW2 Jagbir Singh Nambardar of the village, has stated that the defendant Parkash Kaur is owner in possession of the suit land; and that the suit property is not ancestral. Even the plaintiff's witness PW3 Hardip Singh has admitted in his cross-examination that Parkash Kaur is the exclusive owner of the land, and she is cultivating the same. From the above facts and evidence, it is



established that the plaintiff is neither the owner nor in possession of the suit property. Accordingly, in view of the own admission of the plaintiff and in view of the admission of the plaintiff’s witness PW3 Hardip Singh to the effect that defendant was owner in possession of the suit land, the learned Courts below held that plaintiff is not entitled to injunction as prayed for.

11. It is also to be noted that plaintiff had herself admitted that she was firstly married to one Tarlok Singh and out of this wedlock one daughter and one son were born. The plaintiff had also admitted in her evidence that Dilraj Singh was married with one Tejinder Kaur who had died some time back; whereafter Dilraj Singh was married to Sukhpreet Kaur; then to one Navdeep Kaur who was working as a Manager in one of the hotels in Beas. Navdeep Kaur and Dilraj Singh had a son namely Karanpreet Singh.

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

13. In view of the above facts, the present regular second appeal is hereby **dismissed**.

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

19.03.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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