



115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4351-2018 (O&M)

Date of decision : 27.01.2025

Ram Saroop

...Appellant

Vs.

Smt. Amarjit Kaur

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kehar Singh Hissowal, Advocate
for the applicant-appellant.

ANIL KSHETARPAL, J. (Oral)

CM-11521-C-2018

1. This application is filed under Section 5 of Limitation Act, 1963 for condonation of delay of 17 days in filing the present appeal.
2. In view of the grounds taken in the application, delay of 17 days in filing the appeal is condoned.
3. Civil Miscellaneous Application is allowed.

Main case

1. This regular second appeal has been filed by the plaintiff to assail the correctness of the First Appellate Court's judgment which in turn has reversed the judgment of the trial Court. The plaintiff filed a suit for grant of permanent injunction restraining the defendant from forcible dispossession. He claims to have purchased 4½ share out of 94 shares from Sh. Teja Singh and Sh. Pritam Singh. He claims that the defendant has purchased the property from other co-sharers and a suit for partition is pending. The defendant



contested the suit claiming that they have constructed a residential house, wherein, their family members are residing. Sh. Teja Singh and Sh.Pritam Singh were not competent to transfer ownership. The trial Court decreed the suit, however, the First Appellate Court held that the parties are co-owners and suit for partition is pending. Hence, the plaintiff is not entitled to injunction.

2. It was also noticed that the defendant is in exclusive possession of the property.

3. The judgment of the First Appellate Court was passed on 19.12.2017. The appellant filed the appeal on 13.05.2018, however, no urgent form was filed.

4. The preliminary hearing of the appeal was adjourned for one reason or the other but mainly on the request of learned counsel representing the appellant.

5. Learned counsel representing the appellant submits that in partition proceedings, final decree for partition has been passed on 17.11.2015.

6. Hence, the property has been partitioned, if the appellant has any apprehension of forcible dispossession from the defendant with respect to property, which has fell to his share after partition, he may file a fresh suit.

7. With these observation, the appeal is dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

27.01.2025
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No