



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

292

RSA-280-2020(O&amp;M)

Date of decision: 04.12.2025

Savinder Singh Sidhu

...Appellant(s)

Vs.

State of Punjab &amp; Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sunil Sihag, Advocate  
for the appellant.

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**NIDHI GUPTA, J.****CM-733-C-2020**

This is an application under Section 5 of Limitation Act for condonation of delay of 178 days in filing the appeal.

The reason given in the application seeking condonation of delay of 178 days is contained in Para 3 of the application, which is as under:-

*"3. That the Appellant is an agriculturist as well as practicing lawyer in Tehsil Complex, Guruharsahai. On 09.01.2018, he came to the District Court, Ferozepur in some other matter and there, in District Courts, Ferozepur. he was supplied certified copy of judgment but inadvertently he kept the said judgment in the case brief, which was listed on the said date, so that in evening while reaching home, he can take out the said copy of judgment. However, in the evening, Appellant forgot to take out the judgment from the brief and even forgot to tell his Clerk that they have received the copy. Hence, copy was kept remain in the*



*case brief and in the evening, Clerk while managing the Peshi, kept the brief in the next date of hearing and accordingly, it was lost.”*

The above cited reason is vague and does not constitute sufficient cause to condone extraordinary delay of 178 days in filing 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 Hon’ble Supreme Court in **“Shivamma (Dead) by LRs Vs. Karnataka Housing Board & Others” Civil Appeal No.11794 of 2025 decided on 12.09.2025**. As such, no ground is made out for condoning inordinate delay of 178 days. Present application accordingly stands **dismissed**.

**CM-734-C-2020**

This is an application under Section 151 CPC for condonation of delay of 323 days in re-filing the appeal.

The only reason given for condoning such inordinate delay is in Para 2 of the application, as under: -

*“2. That after obtaining the paperbook of the appeal from the registry by the clerk of the counsel for the appellant, it was misplaced in the office of the counsel. During shifting the record the clerk of the counsel found the present appeal. During this period of delay has occurred in filing the present appeal, the instant appeal is being refilled without any further delay.”*



The above reason given by the appellant is vague. The Law of Limitation is enacted with a purpose, as a handmaid of Justice and cannot be ignored/reduced to an ineffective piece of legislation by giving it the complete go-by. With passage of time, rights of the parties get crystallised. It is the bounden duty of every litigant to pursue his case diligently; and it is also the bounden duty of this Court to ensure that justice inures to both parties concerned.

More so, the Hon'ble Supreme Court in ***Pathapati Subba Reddy (Died) by LRs and others vs. The Special Deputy Collector (LA), Law Finder Doc Id # 2542600***, has held that *"In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act. ...."*

It is my considered view that keeping in mind the totality of the facts and circumstances of the case, the reasons cited by the applicant for condonation of delay, do not constitute sufficient cause. In view of above, present application is **dismissed**.

### **MAIN CASE**

The plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned Courts below whereby suit for possession filed by the appellant in respect of the suit land as described in the plaint; **and** for directing the defendants to pay compensation to the



appellant for illegal occupation of the suit land from 1980 onwards; **and** in the alternative, directing the defendants to acquire the said land in accordance with law, as per provisions of Land Acquisition Act, has been partly decreed by the learned Civil Judge (Junior Division), Guruharsahai vide judgment and decree dated 12.05.2017 in the following terms:-

*“13. In view of my findings given on abovesaid issues, the suit of the plaintiff succeeds and is hereby decreed to the effect that the plaintiff is entitled for possession of the suit land measuring 3 Kanal 17 Marlas comprised of Rect no.40, Killa no.1(1-17) Rect no.41 Killa no.6/1 (2-0) situated in the area of Village Sohangarh, Tehsil Guruharsahai, District Ferozepur as per jamabandi for the year 2012-13. Further the plaintiff is entitled to get compensation from the defendants @ Rs. 18000/- per year of the suit land w.e.f. 30.11.2011 from the date of mutation in his favour till the plaintiff gets possession of the suit land or the defendants acquired the land in accordance with law. Decree sheet be drawn accordingly. File be consigned to the record room.”*

2. The Civil Appeal filed by the plaintiff has been dismissed by learned Additional District Judge, Ferozepur vide judgment and decree dated 28.11.2017. Hence, present Second Appeal.

3. It is inter alia submitted by learned counsel for the appellant/plaintiff that plaintiff was entitled for grant of compensation from the year 1980 onwards as plaintiff had duly proved on record by way of



sufficient evidence including copy of Sale Deed (Ex.P1) that the plaintiff along with his brother had become owner of the suit property in the year 1980 itself. Hence, plaintiff is owner of land since 1980, and not 2011. Hence, plaintiff was entitled to get compensation @ Rs.18,000/- per year i.e. market value of the land, from the year 1980 and not from 2011. It is accordingly prayed that the impugned judgments and decrees be modified to pay compensation to the appellant from 1980 onwards.

4. Per contra, learned counsel for the respondents opposes the submissions advanced on behalf of the appellant and submits that the impugned judgments and decrees of the learned Courts below suffer from no error and the present appeal accordingly deserves to be dismissed.

5. No other argument is made on behalf of the parties.

6. I have heard learned counsel and perused the case file in detail.

I find no merit in the submissions advanced on behalf of the appellant.

7. The plaintiff had duly proved on record that suit land was covered by a drain without the said land being acquired by the respondents in accordance with law. As such, both Courts below had held the plaintiff entitled to compensation from the year 2011 viz when the plaintiff became exclusive owner of the suit property. It has been contended on behalf of the appellant that he became owner in possession of the suit land vide registered Sale Deed dated 19.12.1980 (Ex.P1); and thus, he was entitled to compensation from 1980 onwards. However, it is the own admitted case of



the appellant that suit land came to the share of the plaintiff along with his wife and son, only in the year 2011 by way of Family Partition vide Mutation No.5009 dated 30.11.2011 through partition. Needless to say, the plaintiff shall be entitled to compensation only from the date when he becomes owner of the suit land. Relevant findings of the learned trial Court in Para 9 of its judgment dated 12.05.2017 are that:-

*“9. This court has observed that the suit land was purchased by the plaintiff and his brothers vide registered sale deed dated 19.12.1980 which is Ex. P1 and now in family partition the suit land came into the share of the plaintiff. In demarcation it is found that the suit land has been covered by the Ratte Wala Drain. The demarcation has been duly conducted by the competent revenue authority. Name of the plaintiff, his wife and son has been duly incorporated in the revenue record. The plaintiff has placed on record attested copy of registered sale deed dated 19.12.1980 Ex. P1 vide which the suit land was purchased from Tirath Singh and Kartar Singh. The perusal of Jamabandi for the year 1978-1979 Ex. P2 shows that one Joginder Singh is owner in possession of the suit land. There is also an entry of mutation in favour of Tirath Singh and Kartar Singh, who are predecessor in interest of the plaintiff. In the same Jamabandi suit land has been mutated in favour of plaintiff and his brothers vide mutation no. 1036 dated 24.09.1981 Jamabandi for the year 1982-1983 Ex.P3 reflects that Balwant Singh, Gurmej Singh and Surinder Singh are incorporated as owner in possession of the suit land. Similar entries reflect in Jamabandi Ex. P4 for the year 1987-1988,*



*Jamabandi Ex. P5 for the year 1992-1993, Jamabandi Ex. P6 for the year 1997-1998, Jamabandi Ex. P7 for the year 2002-2003 Jamabandi for the year 2007-2008 Ex. P8 also reflects similar entries and it also shows that the suit land has been mutated in favour of the plaintiff, his wife and son vide mutation no. 5009 through partition. In Jamabandi for the year 2012-2013 Ex. P9 the name of plaintiff, his wife and his son has been duly incorporated in column no. 3 and 4. This Jamabandi shows that the plaintiff alongwith his wife and son is owner in possession of the suit land. The defendants are nowhere shown in any capacity in the revenue record. It deserves to mention here that presumption of truth is attached with the Jamabandi. The suit land has been duly demarcated by competent authorities. The certified copy of demarcation report is Ex. PW1/A and Ex. PW1/B is the site plan which are admitted true by DW1 Pardeep Kumar Gandhi. This court has further observed that the defence of the defendants is that the defendants have acquired the suit land from the plaintiffs in the year 1980 and compensation has already been paid for the same. The perusal of file shows that nothing has been placed on record by the defendants from where it can be presumed that the suit land was acquired by them after adopting proper procedure of acquisition of land. The defendants have not placed on record any document, material, publication, notification regarding acquisition of suit land under the provisions of law. DW1 Pardeep Kumar Gandhi in his cross-examination stated that record regarding the acquisition of suit land has been destroyed but nothing has been produced to prove this fact. It is pertinent to mention here that DW1 Pardeep Kumar Gandhi*



*admitted in his cross examination that "it is correct that drain is running from the suit land as per the demarcation of suit land which is also admitted by him to be correct. It has been duly proved by the plaintiff by oral as well as documentary evidence that the suit land is covered by the Ratte Wala Drain without acquisition as per the provisions of the law. It has also been proved that the suit land is in unauthorized possession of the defendants. The plaintiff is entitled for compensation from the defendants from the date when he became owner in possession of the suit land and he along with his wife and son became owner of the suit land vide mutation no. 5009 dated 30.11.2011 through partition..."*

8. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings.
9. In view of the above, present Second Appeal is **dismissed** on grounds of delay as well as on merits.
10. Pending application(s) if any also stand(s) disposed of.

**04.12.2025**  
Sunena

**(Nidhi Gupta)**  
**Judge**

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