



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

**Second Appeal Order No. 48 of 2025 (O&M)
Date of Decision: 04.09.2025**

Dinesh Kesri

..... Appellant

Versus

Sarla Devi (now deceased) through her testamentary
heir Vaibhav Kesri, Rajpura, District Patiala and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mrs. Gurnam Kaur Turka, Advocate
for the appellant-defendant No. 1.

HARKESH MANUJA, J. (ORAL)

Challenge has been laid to an order dated 16.07.2025 passed
by the Court of Additional District Judge, Patiala, the operative para-16
thereof is re-produced as under:-

“16. Hence in view of the above findings the impugned order dated 07.12.2019 is set aside and the appeal is accepted and the matter is remanded back to the learned trial court for fresh adjudication after affording the appellant/plaintiff three effective opportunities strictly for recording the evidence, subsequent to which the defendant shall also avail only three opportunities. Keeping in view the fact that the matter was delayed in the court for over a period of five years it is deemed appropriate to impose costs of Rs. 5,000/- on the appellant which shall be paid to the defendants as a condition precedent . The parties shall appear before the learned court of first instance within one month from the date of decision. The Ahlmad is directed to arrange the file in proper manner and to return the record to the court of first instance with a copy of this judgment and appeal file be consigned to the record room after due compliance.”

[2] In the present case, a Civil Suit No. 242 of 2015 came to be filed at the instance of respondent No. 1-plaintiff with the following prayer:-

“ Suit for Declaration under section 34, 36, 37 & 38 of Specific Relief Act to the effect that Judgment & Decree dated 10.03.2015 passed by Sh. Rahul Garg, PCS, CJJD, Rajpura, in Civil Suit No. 190-1/2014, titled as “Dinesh Kesri Versus Satish Kesri & others” is illegal, null and void qua the rights of the plaintiff and is also not binding upon the right of the plaintiff and the same is liable to be set aside.

And

Plaintiff is owner and in joint possession to the extent of ½ share in Plot No. BBP No. 15, situated at ITI Road, Rajpura, Tehsil Rajpura, Distt. Patiala alongwith Satish Kesri son of late Sh. B.N. Kesri after the death of Sh. B.N. Kesri and defendants No. 1 & 2 have no right, title and interest in the above said plot no. BBP No. 15, situated at ITI Road, Rajpura, Tehsil Rajpura, Distt. Patiala and bounded as under:-

North:- Road

South:- Banglow Plot No. 16

East:- Banglow Plot No. 22

West:- Road

And

For Permanent Injunction restraining the Defendant No. 1, his Agents, employees, Associates or Representative from selling, alienating or in any manner creating any type of Charge on ½ share of plaintiff on the plot no. BBP No. 15, situated at ITI Road, Rajpura, Tehsil Rajpura, Distt. Patiala on the basis of judgment & decree dated 10.03.2015 passed by Sh. Rahul Garg, PCS, CJJD, Rajpura or raising any type of construction over the ½ share of plaintiff on the above said plot.”

[3] Upon framing of issues despite respondent No. 1-plaintiff (Sarla Devi) been afforded five opportunities, she failed to conclude the evidence, thereby resulting into dismissal of her suit in exercise of powers

under Order 17 Rule 3 of CPC by the learned Civil Judge (Junior Division), Rajpura, vide judgment and decree dated 07.12.2019.

[4] Upon appeal, vide order dated 16.07.2025, the mater has been remanded back to the trial Court for affording effective opportunity to respondent No. 1 to conclude the evidence by availing three opportunities, subject to payment of costs of Rs. 5,000/-. The aforesaid order dated 16.07.2025 has been assailed in the present appeal.

[5] Having heard learned counsel for the appellant, no interference is called for with the impugned order dated 16.07.2025 passed by the learned Additional District Judge, Patiala, which grants an opportunity to respondent No 1-plaintiff so as to put forth her case before the trial while affording three effective opportunities to lead her evidence. However, considering the fact that the suit is pending for the last almost ten years, the learned trial Court is requested to expedite the proceedings and conclude the trial of the suit within four months from the next date of hearing fixed before it, i.e. 15.09.2025.

[6] **Disposed off** accordingly.

[7] Pending miscellaneous application(s), if any, shall also stand disposed off.

September 04, 2025
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No