

2025:PHHC:084977



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

117

RSA-3015-2024 (O&M)
Date of decision: 14.07.2025

Sukhbir

...Appellant

Versus

Mahender and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Ms. Anita Balyan, Advocate for the appellants.

VIKAS SURI, J. (Oral)

CM-12363-C-2024

This is an application under Section 151 CPC for condonation of delay of 09 days in re-filing the appeal.

For the reasons mentioned in the application, supported by affidavit, the same is allowed and delay of 09 days in re-filing the appeal is condoned.

CM stands disposed of.

RSA-3015-2024

1. The present regular second appeal at the instance of defendant No.4 raises challenge to the judgment and decree dated 04.07.2024 passed by learned District Judge, Sonapat, dismissing the appeal filed against the judgment and decree dated 09.08.2022 passed by learned Civil Judge (Senior Division), Sonapat, whereby the suit for mandatory and permanent injunction was decreed with costs and the



State of Haryana, Land Acquisition Collector and the Administrator, HUDA (defendant No.1 to 3) were directed to prepare revised Form-D and Statement-19 for the amount of compensation qua 1/8th share of the suit land and disburse the same to the plaintiff. The said officials were at liberty to recover the said amount from defendant Nos.4 and 5 as arrears of land revenue. The instant appeal has been preferred by defendant No.4 who was the appellant before the first appellate Court. The parties are being referred to their status before the trial Court for clarity and to avoid confusion.

2. The facts in brief are that the plaintiff filed a suit for mandatory and permanent injunction wherein he asserted that agricultural land comprised in Khewat No. 83, Khatoni No. 177, Rect. & Killa Nos. 66/21 (8-0), 67//8 (8-0), 9 (8-0), 10 (8-0), 16 Min (4-0), 67//11 (8-0), 13 (7-10), 16 Min (4-0), 67//17 (8-0), 18/1 (1-0) total measuring 72-10M situated in the revenue estate of village Sewli, Tehsil and District Sonipat was inherited by him from his father. Mutation of inheritance bearing No. 2144 was entered and sanctioned on 28.09.1994. The suit land was subject to acquisition and award No. 12 dated 02.03.2006 was made in that regard. The suit land was acquired at the rate of Rs. 12,50,000/- per acre. The plaintiff had 1/8th share in the land. Defendant No. 4 filed a civil suit wherein the plaintiff was arrayed as defendant No. 4 in said suit along with his siblings and mother. In the said suit, defendant Nos. 1 to 3 were duly served and on appearance, they suffered a statement in favour of the plaintiff, who was defendant



No. 4 in the suit. The said suit was decided vide judgment and decree dated 09.01.1980. The present plaintiff, who was arrayed as defendant No.4 in the previous suit was deleted from the array of defendants on a statement made by counsel for the plaintiff in the said case. However, the share of the plaintiff was wrongly transferred in the name of defendant No. 4 at the time of passing of the judgment and decree and on that basis, mutation was also sanctioned in the name of defendant No. 4 on the basis of the aforesaid erroneous judgment and decree dated 09.01.1980. Taking advantage of the aforesaid erroneous entry at the time of acquisition of the suit land, defendant No. 4 received the compensation falling to the share of the plaintiff. The plaintiff used to reside outside the village as he was in Government service. The plaintiff was not aware of the fraud played by defendant No. 4 as he was not residing in the village. Defendant Nos. 4 and 5 also preferred reference under section 18 of the Land Acquisition Act. When the plaintiff learnt about the fraud played upon him by defendant Nos. 4 and 5, he approached the learned Reference Court by way of an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (for short 'CPC'). However, the said application was dismissed on the ground that name of the applicant-plaintiff did not find mention in the revenue record as owner and therefore, he cannot be treated as a person interested under the land acquisition proceedings. Aggrieved by the aforesaid order, the plaintiff preferred an application under section 152 CPC before the Civil Court, Sonapat for correction in the judgment and decree dated



09.01.1980 passed in civil suit No. 721 of 1979. The said application was allowed vide order dated 07.04.2015 and the name of the plaintiff was deleted from the decree sheet. It is thereafter that plaintiff requested defendant Nos. 1 to 3 to issue the revised Form- D dated 12.09.2013 and for preparation of correct statement No. 19 dated 02.03.2006 and pay the amount of compensation falling to his share. As per information sought under the Right to Information Act, an amount of Rs. 1,17,69,966/- has been paid to defendant No. 5 vide cheque dated 12.01.2012 and the amount of half share of defendant No. 4 stands deposited in the office unpaid. The plaintiff accordingly filed objections along with an affidavit requesting not to release the amount to defendant No. 4 as the same falls to the share of plaintiff. A request was also made to Reference Court to issue refund voucher in the name of plaintiff after obtaining his revised form No. 19 from defendant Nos. 1 to 3. It was further alleged that defendant Nos.1 to 3 had colluded with defendant No. 4 and played fraud upon the plaintiff. No appeal or revision has been preferred by defendant No. 4 against the order dated 07.04.2015 whereby on an application moved under Section 152 CPC, the judgment and decree dated 09.01.1980 stood corrected. Accordingly, a decree for mandatory injunction was sought against defendant Nos. 1 to 3 to prepare revised Form-D as well as statement No. 19 and release the amount of compensation falling to the share of plaintiff to the extent of 1/8th share of the land acquired. Upon notice, defendant No.4 contested the suit.

3. From the pleadings of the parties, the following issues were



framed:-

1. Whether the plaintiff is entitled to a decree for declaration as prayed for? OPP
2. Whether the plaintiff are entitled to a decree for mandatory injunction, as prayed for? OPP
3. Whether the suit of the plaintiff is not maintainable in the present form? OPD
4. Whether the plaintiff has no cause of action and locus standi to file the present suit? OPD
5. Whether the plaintiff has concealed true and material facts from the court? OPD
6. Relief.

4. After taking into consideration the pleadings of the parties and evidence adduced on record, the suit was decreed with costs. Defendant Nos.1 to 3 were directed to prepare revised Form-D and Statement-19 qua the amount of compensation pertaining to the share of plaintiff, i.e. qua $1/8^{\text{th}}$ share of the acquired land and disburse the same to the plaintiff. Defendant Nos.1 to 3 were at liberty to recover the said amount from defendant Nos.4 and 5 as arrears of land revenue.

5. Aggrieved by the aforesaid judgment and decree dated 09.08.2022 passed by the learned trial Court, defendant No.4 preferred an appeal before learned District Judge, Sonapat, which was dismissed vide judgment and decree dated 04.07.2024, affirming the findings passed by the trial Court.

6. The present regular second appeal has been filed by



defendant No.4 against the aforesaid judgments and decree returning concurrent findings of fact against the appellant.

7. Heard learned counsel for the appellant and with her able assistance, perused the paper book.

8. Admittedly, the interest of the appellant and defendant No.5 in the acquired suit land was on the basis of the judgment and decree passed by the civil Court in civil suit No.721 of 1979 decided on 09.01.1980. It is not disputed that the plaintiff in the said civil suit had suffered a statement and the name of the present plaintiff was deleted from the array of defendants. However, inadvertently, the effect of the said order was not carried and reflected in the judgment and decree dated 09.01.1980. On an application having been moved under Section 152 CPC, the said error was rectified. It is not disputed that the claim before the land acquisition authorities was on the basis of the judgment and decree dated 09.01.1980 which stood corrected vide order dated 07.04.2015. Concededly, no steps were taken by the appellant or defendant No.5 against the order dated 07.04.2015 and the said order has since attained finality.

9. Learned counsel for the appellant has argued that the application before the civil Court had been moved after a delay of about 32 years, which ought not to have been allowed by the civil Court. On a query of the Court, learned counsel for the appellant very fairly submits that no judicial redress was sought against the order dated 07.04.2015, whereby error in the judgment and decree dated 09.01.1980 was ordered



to be rectified. It is not disputed that in the earlier civil suit, the name of the present plaintiff was ordered to be deleted from the memo of parties, on a statement suffered by the appellant/defendant No.4. The plaintiff's name having been deleted from the array of defendants in the said civil suit, the judgment and decree passed therein would not have any bearing on his rights in the present case. That being so, it does not lie in the mouth of the appellant to urge that an error patent on the record was rectified after inordinate delay, especially when the order carrying out the said correction was never appealed against and the same has since attained finality.

10. No other argument has been raised.

11. No question of law, much less substantial question of law, arises for determination in the instant appeal. In view of the aforesaid, finding no merit in the instant second appeal, the same is accordingly dismissed.

12. Pending applications, if any, also stand disposed of.

July 14, 2025
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(VIKAS SURI)
JUDGE

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