

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****137****RSA-3516-2025 (O&M)****Date of decision: 04.12.2025****Veena @ Parveen Singal****...Appellant(s)****Vs.****This District Collector, Bathinda and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Ajay Aggarwal, Advocate for the appellant.***********NIDHI GUPTA, J.****CM-12856-CII-2025**

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 298 days in filing the accompanying appeal.

2. The reasons cited by learned counsel for the applicant/appellant in para 2 and para 4 of the application seeking condonation of delay of 298 days are as follows:-

"2. That the Appellant has not deliberately misused any time to file the appeal, only due to necessary circumstances the Appellant has to file the appeal after the limitation period.

XXXXXXXXXX

4. That the husband of the appellant, has to take several medications due to heart surgery, and therefore looking after him is very much necessary."



3. The said reasons are vague and do not constitute sufficient cause to condone extraordinary delay of 298 days in filing the present appeal.

4. Present application accordingly stands **dismissed**.

RSA-3516-2025 (O&M)

Present second appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below, whereby suit filed by the appellant for possession, permanent injunction, or in the alternative, for compensation for acquisition of Suit land to be paid @ Rs.20,52,784/- per acre plus solatium and interest @ 24%, has been dismissed by both the Courts below.

2. The plaintiff had filed the present suit for possession of land measuring 8 Biswas (400 Sq. Yards) comprised in khasra No.2395 min, khatauni No. 12500 khewat No.2838, as per Jamabandi for the year 1997-98; **or** in alternative, for compensation by Land Acquisition Collector towards 49.5 acres Bibiwala Road, Bathinda Improvement Trust, Award for which is pronounced on 29.8.1996 @ Rs.20,52,784 per acre plus Solatium and interest @24% p.a.; **and** for permanent injunction for stay of development project in khasra No.2395 min.

3. The facts as pleaded in the plaint are that the plaintiff had purchased 8 biswas of land comprised in khasra No.2395 min vide registered Sale Deed No. 5367 dated on 27.11.1981, as a co-sharer alongwith Mrs. Swaran who had also purchased 8 biswas comprising in the same khasra No. 2395 min. on the very same day vide separate



registered Sale Deed No. 5366 from common vendor. Thereafter, defendant-Improvement Trust had acquired part of Khasra No. 2395 including the land of the plaintiff alongwith that of Mrs. Swaran vide 25.57 Acre Area Development Scheme. Thereafter, the Defendant-Improvement Trust floated another scheme for development of 49.5 Acres in which balance of land of Khasra No.2395 became part of 49.5 Area Development Scheme. The Award for 49.5 Area Development Scheme was pronounced by the Collector on 29.08.1996. It was the contention of the plaintiff that her land comprising in Khasra No. 2395 was part of 49.5 Acre Development Scheme along with land of Mrs. Swaran. Grievance of the plaintiff was that Mrs. Swaran was paid compensation @ Rs.20,52,784/- per acre as per the Award announced on 29.08.1996 but no payment was made to the plaintiff. It was also contended that no notice under Section 12(2) of the Land Acquisition Act, 1894 was served upon the plaintiff. Accordingly, plaintiff had filed a CWP No. 9950 of 1997 challenging 49.5 Acre Development Scheme of the Defendant-Trust. The plaintiff pleaded that after the said CWP was dismissed, plaintiff had approached the respondent-Trust for payment of the land of the plaintiff acquired under 49.5 Acre Development Scheme. In this regard, plaintiff is stated to have written several letters in the year 1998 to the respondents but no action was taken. Accordingly, present suit was filed on dated 11.05.2000 for possession of land or in the alternative for compensation @ Rs.20,52,784/-.



4. The only contention raised on behalf of the appellant is that persons identically situate as the appellant had been awarded compensation at the rate sought by the appellant. It is submitted that defendant cannot be permitted to use different yardstick for different landowners to the prejudice of the plaintiff. Thus, the impugned judgments and decrees of the learned Courts below are illegal and unsustainable.

5. It is also contended that the suit of the plaintiff is not barred by limitation as the plaintiff had filed suit immediately after completion of acquisition of 49.5 Acre Development Scheme in 1996 and after due completion of procedure by sending letters and communication to the respondents. It is accordingly prayed that the present second appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

6. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions made on behalf of the appellant.

7. It is proven fact on record that the land of the plaintiff was acquired in the 25.57 Acre Development Scheme; and not in the 49.5 Acre Development Scheme. It is also proved on record that Notice dated 23.04.1993 Ex.D6 was issued to the appellant under Section 12(2) of the Land Acquisition Act, 1894 in respect of the said 25.57-acre acquisition. Defendants have duly proved on record that said notice was served upon the plaintiff. Although during arguments, plaintiff had denied receipt of



said notice, however, the said denial is rendered irrelevant as plaintiff has not stepped into the witness box to prove her case. As per Order 5 Rule 15 CPC, notice may be served to any adult member of the family. In the present case, it is proven on record that notice No. 108/LAC/BIT dated 23.04.1993 Ex.D6 was served upon Hant Ram father-in-law of the plaintiff. In any event, plaintiff cannot plead ignorance of the acquisition proceedings as actual possession was taken by the defendants vide record of possession Ex.D2. Thus, it was proved that land of appellant was acquired under the 25.57 Acre Development Scheme. Moreover, Award dated 20.04.1993 for the 25.57 Acre Development Scheme was pronounced on 20.4.1993. However, Plaintiff has not challenged the the said Award. From the above facts, it is also proved that suit of the appellant is barred under limitation.

8. Contention of the plaintiff that she is covered under the 49.5 Acre Development Scheme is also misleading and misconceived as it is duly proven on record that land of the plaintiff was acquired only under the 25.57 Acre Development Scheme. In this regard, learned Trial Court had veritably framed issue No.2 to the effect that "*Whether the plaintiff is entitled to the amount of compensation of the suit property towards 49.5 acre scheme, the award for which, pronounced on 20.06.1996 @ Rs.20,52,784/-? OPP*". However, plaintiff has abjectly failed to discharge her onus. The relevant findings of the learned First Appellate Court as contained in para 16 of the judgment dated 07.09.2024 are reproduced hereunder: -



“16. In copy of Award of 25.57-acre scheme it is clearly mentioned that 2395 Khasra number min (0-8) has been acquired which the property of the plaintiff and as per this Award, whole amount has been deposited and has been received by all the persons whose land had been acquired. Land was acquired under 25.57 acre scheme and plaintiff has challenged 49.5 acre scheme, but no land of the plaintiff was acquired in 49.5 acre scheme. No evidence on file that land of the plaintiff was acquired in 49.5 acre scheme. So the plaintiff has failed to prove the case that how she is entitled to possession or compensation. The suit of the plaintiff is also not within the period of limitation as the property of the plaintiff was acquired under 25.57 Acre Scheme as per award dated 20.4.1993 Ex.D-1, the possession of the property was also taken vide proceedings Ex.D-2 on 29.4.1993. Thus plaintiff was not in possession in the year 1993 itself. Plaintiff has used a camouflage of suit for possession to bring the suit under limitation but infact limitation had started in 1993 itself and it cannot be extended by giving any subsequent notice as alleged by the plaintiff. Plaintiff was primarily seeking relief that land should be considered to be acquired under the Scheme dated 29.8.1996. Thus primarily plaintiff was seeking declaration and recovery but camouflage of possession or declaration and injunction has been pleaded but infact suit of the plaintiff was for declaration and could have been brought within three years of the cause of action which had arisen in 1993 itself. So the suit of the plaintiff is barred by limitation also.”

9. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings, and legal position.

10. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.
11. Pending applications, if any, stand disposed of.

04.12.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No