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

**RSA No.779 of 2023 (O&M)
Date of Decision : 19.03.2026**

Municipal Council Kaithal through its Executive Officer, Kaithal
....Appellant

Versus

Nirmal Singh (Nirmaljit Singh) and another
.....Respondents

CORAM: HON'BLE MR JUSTICE PANKAJ JAIN

Present: Mr. Piyush Bansal, Advocate
for the appellant.

Mr. Shreenath A. Khemka, Advocate
for respondent No.1.

PANKAJ JAIN, J. (ORAL)

CM No.2939-C of 2023

This is an application filed under Section 151 CPC for
condonation of delay of 47 days in refiling the appeal.

For the reasons recorded in the application, this Court is
satisfied that the applicant/appellant has made out a sufficient cause for
condonation of delay. Consequently, the present application is allowed. The
delay of 47 days in re-filing the appeal, is hereby condoned.

RSA No.779 of 2023 (O&M)

Defendant No.2 is in second appeal.

2026:PHHC:051515



2. For convenience, the parties hereinafter are referred to as by their original position before the Court of the First Instance i.e., the appellant as 'defendant No.2', respondent No.1 as 'plaintiff' and respondent No.2 as 'defendant No.1'.

3. Plaintiff filed suit claiming himself to be co-sharer/co-owner in possession of a vacant plot measuring 700 square yards with a demolished/dismantled structure over the same as detailed out in the headnote of the plaint and claimed decree of permanent injunction alleging threat to his possession by the defendants.

3.1. As per the plaintiff, he being co-sharer of the suit property is in possession of the same. Defendants taking advantage of the property being vacant and structure having been demolished, threatened the plaintiff to usurp the same unlawfully.

4. Suit was contested by the defendants denying the title of the plaintiff.

6. The Court of the First Instance framed the following Issues:

- “1. Whether the plaintiff is entitled to the decree of injunction as prayed for ? OPP
2. Whether the suit is not maintainable? OPD
3. Whether the plaintiff has no locus standi? OPD
4. Whether the instant suit is bad for want of notice under Section 52 HMA 1973? OPD
5. Relief.”

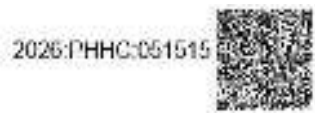
2026:PHHC:051515



7. While deciding Issue No.1, the Court of the First Instance found that the plaintiff successfully established his title over the suit property. The same stands proved by the Revenue Record in which he along with other co-sharers have been recorded as owners of the suit property. The said fact also stands admitted by the defendants. However, defendants apart from an oral assertion that the revenue record bears wrong entry, failed to prove any evidence. The Trial Court accordingly, decreed the suit filed by the plaintiff restraining defendants from interfering in his possession over the suit property.

8. The findings recorded by the Court of the First Instance, stand affirmed by the Lower Appellate Court.

9. Having heard counsel for the parties and after carefully perusing the records of the case, this Court finds that the dispute relates to a vacant plot measuring 700 square yards which is part of the land comprised in *Khasra* No.216 situated within the revenue estate of Patti Gaddar, Kaithal. It is not in dispute that as per revenue record, the plaintiff along with other co-owners have been recorded in the column of ownership as 'owners of the suit property'. Appellant/defendants want to assert their title and possession of the suit property claiming construction of toilet, metalled chowk and road over the same. In order to prove the same, defendants examined Pardeep Kumar, J.E. as DW-1. He failed to produce any record w.r.t. the construction claimed to have been raised over the suit property by the defendants/appellant. The documentary evidence in form of record of rights



produced by the plaintiff has gone un rebutted. Defendants failed to lead any evidence to prove that the property was either owned by them or was being used by public so as to label the same as public property.

10. In view thereof, this Court finds that the Courts below have rightly discarded the stand taken by Municipal Council asserting right over a private property.

11. Resultantly, finding no merit in the present appeal, the same is ordered to be dismissed.

12. Pending application, if any, shall also stand disposed off.

March 19, 2026

(Pankaj Jain)
Judge

Dpr

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