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

**RSA No.1561 of 2021 (O&M)
Date of Decision : 20.03.2026**

Bimla

....Appellant

Versus

Dharambir and others

.....Respondents

CORAM: HON'BLE MR JUSTICE PANKAJ JAIN

Present: Mr. R.S. Malik, Advocate
for the appellant.

PANKAJ JAIN, J. (ORAL)

CM No.6223-C of 2021

This is an application filed under Section 5 of the Limitation Act for condonation of delay of 103 days in filing 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 103 days in filing the appeal, is hereby condoned.

CM No.15029-C of 2025

This is an application filed under Order XXII Rule 4 CPC read with Section 151 CPC for bringing on record LR's of deceased/respondent No.1 Dharambir, who is stated to have expired during the pendency of the appeal.



As per the averments made in Paras No.2 and 3 of the application, deceased/respondent No.1 Dharambir is survived by his widow and two sons, who have been detailed out in Para No.3 of the application. Apart from them, there is no other surviving legal heir of the deceased. Application is supported by affidavit.

In view of above, the instant application is allowed subject to all just exceptions. Legal heirs of the respondent No.1/deceased as detailed out in Para No.3 of the application, are ordered to be impleaded. Amended memo of parties is taken on record.

RSA No.1561 of 2021 (O&M)

Plaintiff is in regular second appeal. For convenience and to avoid confusion, the parties hereinafter are referred to as by their original position before the Court of the First Instance, i.e., the appellant as 'plaintiff' and the respondents as 'defendants'.

2. Plaintiff filed suit seeking decree of declaration to the effect that she is owner in possession of the suit land measuring 18 Kanals as detailed out in the plaint and the attachment order dated 02.06.2000 and that dated 30.08.2012 are liable to be set aside.

2.3. As per plaintiff, she purchased suit property from defendant No.1 and his brother namely Jai Parkash vide sale deed bearing document No.3687, dated 23.03.2007. Mutation *qua* the same was sanctioned on 14.04.2007. Plaintiff came in possession of the suit property on the basis of the sale deed. There were proceedings under Section 145 Cr.P.C. titled as



'Dharambir vs. Anand Singh etc'. before Sub Divisional Magistrate, Ganaur. As none of the parties could lead evidence to evince their possession, attachment order was passed under Section 145(1) Cr.P.C. and Tehsildar, Ganaur was appointed as receiver.

2.4. Plaintiff claims to be owner in possession of the suit property and filed the present suit claiming that defendants who have no concern with the same in collusion with each other want to dispossess the plaintiff illegally.

3. Defendant No.1 filed written statement admitting the claim of the plaintiff.

4. Defendants No.2 to 4 contested the suit pleading that plaintiff has no concern with the suit property.

5. The dispute between Dharambir i.e., defendant No.1 and his brother Jai Parkash against other defendants, stands finally decided in Civil Suit bearing No.275/01/09 vide judgment and decree dated 29.03.2004. Suit filed by Dharambir and his brother was dismissed.

6. The appeal preferred against judgment and decree passed by Civil Judge was accepted by the Lower Appellate Court vide judgment and decree dated 07.05.2005. Dharambir and his brother preferred RSA No.2120 of 2005 before High Court. The same was allowed vide judgment and decree dated 06.03.2009. Judgment and decree passed by lower Appellate Court was set aside and the suit preferred by Dharambir and his brother Jai Parkash was ordered to be dismissed. SLP No. 30481 of 2009



filed by them before the Supreme Court, stands dismissed. Defendants No.2 and 3 are thus owners of the suit property. Separate Execution Petition for restoration of their possession is pending. Sale Deed dated 23.03.2007 executed by Dharambir and Jai Parkash in favour of their sister is hit by Section 52 of the Transfer of Property Act, 1882. Defendants No.2 and 3 accordingly, prayed for dismissal of the suit filed by the plaintiff.

7. The Court of the First Instance framed the following Issues to try the suit preferred by the plaintiff:

- “1. Whether the plaintiff is owner in possession of the suit property? OPP.
 2. Whether the order of attachment dated 2.5.2000 and 30.5.2013 are illegal, null and void? OPP.
 3. Whether the suit filed by the plaintiff is not maintainable in its present form? OPD.
 4. Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD
- Relief.

8. While deciding Issues No.1 and 2, the Court of the First Instance found that the sale deed on which the plaintiff wants to rely upon, already stands annulled vide order passed by this Court in COCP No.775 of 2007, dated 26.03.2012 (Exhibit D-1) whereby Executing Court has been directed to ignore and overlook the sale deed, dated 23.03.2007. The *inter se* dispute between defendant No.1 and defendants No.2 & 3 having already been adjudicated upto the Supreme Court, the plaintiff has no right to maintain the present suit.



9. The aforesaid findings stand affirmed by the Lower Appellate Court.

10. I have heard counsel for the parties and have carefully gone through records of the case.

11. From the records, it is discernible that defendant No.1 Dharambir along with his brother Jai Parkash, both sons of Rang Lal, claimed themselves to be owner in possession of the suit property. They preferred Civil Suit No.275/01/09. The same was decreed by the Court of the First Instance vide judgment and decree dated 29.03.2004. Both Dharambir and Jai Parkash were unsuccessful in the *lis* upto Supreme Court. The order passed by Supreme Court is on record as Exhibit D-6. During pendency of the present *lis*, the brothers transferred the suit property in favour of their sister i.e., the present plaintiff.

11.1. In the meantime, the Contempt Court vide order dated 26.03.2012, Exhibit D-1, took cognizance of the sale deed propounded by brothers in favour of their sister and directed the Executing Court to ignore the Sale Deed dated 23.03.2007.

11.2 The brothers having lost the battle upto the Supreme Court, the sister is desperately attempting to defeat the rights of defendants No.2 and 3. In a novel design, the attachment orders are being impugned by way of a separate suit.

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11.3. Hence, this Court finds that the present suit is nothing short of an abuse of the process of law. Resultantly, finding no merit in the present appeal, the same is ordered to be dismissed.

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

March 20, 2026

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No