

2026-PHHC-066847



176

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-462-2023 (O&M)

Date of Decision: April 21, 2026

ARJUN DASS THROUGH HIS LRS
Versus

.....Appellant(s)

SNEH LATA AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sudhanshu Makkar, Advocate for the appellant.

HARKESH MANUJA, J. (ORAL)CM-1756-C-2023

This is an application seeking condonation of delay of 423 days in refiling the appeal.

Having heard learned counsel for the parties and gone through the contents of the application which is supported by an affidavit, sufficient cause is made out and thus, the same is allowed and delay of 423 days in refiling the appeal is hereby condoned.

MAIN CASE

The legal representatives of plaintiff are in appeal. First Appeal filed by the appellant(s)-plaintiff was dismissed by the learned First Appellate Court. For the sake of convenience, the parties are being referred to as per their status in the Civil Suit.

2. By way of present appeal, challenge has been laid to the judgment and decree dated 16.01.2020 passed by the learned Additional District Judge, Bhiwani (hereinafter to be referred as the "*First Appellate Court*"), whereby an appeal preferred against the judgment and decree dated 16.03.2015 passed by the learned Additional Civil Judge (Senior

Division), Bhiwani (hereinafter to be referred as the “*trial Court*”), dismissing the suit for declaration and injunction, filed at the instance of predecessor-in-interest of the appellant(s) namely, Arjun Dass was dismissed, resultantly, affirming the judgment and decree passed by the learned trial Court.

3. Briefly stating, Arjun Dass, predecessor-in-interest of the appellant–plaintiff, filed a suit for declaration claiming himself to be owner in possession of the suit property measuring 42 kanals 6 marlas, forming part of the revenue estate of village Baliyali, Tehsil Bhiwani Khera, District Bhiwani, on the basis of a family settlement with her sister-defendant No.1. In response, defendant–respondent No. 1-Sneh Lata, who was the real sister of the plaintiff-Arjun Dass, appeared before the Court and made a statement dated 08.02.2006 besides filing a written statement wherein she acknowledged the factum of the family settlement and admitted that the suit property had fallen to the share of the deceased Arjun Dass. However, defendant No.2 in her written statement pleaded that the defendant No.1 executed a power of attorney dated 14.03.2006 with respect to her rights in the subject property in favour of her sister-in-law namely, Santosh Devi who, on the basis of the said power of attorney executed a registered sale deed dated 24.03.2006 in favour of defendant No.2-Shakuntala. On the basis of said sale deed, respondent-defendant No.2 claimed herself to be *bona fide* purchaser and thus, prayed for the dismissal of the suit.

4. Based on the pleadings of the parties, following issues were framed by the learned trial Court:

“1. *Whether the plaintiff is entitled to the relief as alleged in the head note of the plaint? OPP*

2. *Whether the suit of the plaintiff is not maintainable in the present form? OPD*
3. *Whether the plaintiff has no locus-standi to file the present suit? OPD*
4. *Whether the plaintiff has no cause of action to file the present suit? OPD*
5. *Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD*
6. *Whether the plaintiff has not come to the Court with clean hands? OPD*
7. *Whether the suit has not been properly stamped for the purpose of Court fee? OPD*
8. *Whether the suit of the plaintiff is time barred? OPD*
9. *Whether the suit is hit by the principle of estoppel? OPD*
10. *Whether defendant No.2 is bona fide purchaser of the suit property? OPD*
11. *Relief."*

5. After considering the evidence, the learned trial Court vide its judgment and decree dated 16.03.2015 dismissed the suit. Aggrieved thereof, first appeal was preferred at the instance of Arjun Dass-plaintiff, which was also dismissed by the First Appellate Court vide judgment and decree dated 16.01.2020, thereby, affirming the decision of the learned trial Court.

6. Impugning the aforementioned judgments and decrees, the sole contention raised on behalf of the plaintiff-appellant is that once the defendant No. 1-Sneh Lata suffered a statement in favor of appellant-plaintiff on 08.02.2006 before the learned trial court; admitting the claim of the plaintiff with respect to the subject property, the suit was liable to be decreed by according due sanctity to such admission. No other argument has been addressed by learned counsel for the appellants.

7. I have heard learned counsel for the appellant and gone through the paper book. I am unable to find substance in the submissions made on behalf of the appellant.

8. Though it came on record that a family settlement took place between Arjun Dass, his two brothers, and their father sometime in the

year 1970, whereby 24 acres of agricultural land was allotted to the three brothers, including Arjun Dass, and about 25 acres was retained by the father, however, after the death of the father, the said share devolved upon all his legal heirs, including the plaintiff-Arjun Dass and defendant No.1-Sneh Lata vide mutation of inheritance entered on 03.09.2006 (Ex. D-49). Further, it was concurrently recorded by the learned Courts below that the deceased Arjun Dass failed to substantiate the existence of any family settlement between himself and his sister, Sneh Lata, in respect of the subject property left by their deceased-father, Noneet Ram.

9. In such circumstances, the mere fact that defendant No. 1, Sneh Lata, made a statement in favour of the plaintiff before the learned trial Court on 08.02.2006, admitting the family settlement, would not *ipso facto* deprive the defendant No. 2, Shakuntala, of her rights in the subject property derived by virtue of the registered sale deed dated 24.03.2006 (Ex. D-3) executed in her favour by the power of attorney holder of defendant No. 1, namely Santosh. Pertinently, neither the power of attorney dated 14.03.2006 (Ex. D-22) nor the aforesaid sale deed was ever challenged before any Court of competent jurisdiction by the defendant No.1. The fact that defendant No. 1 neither challenged the validity of the power of attorney dated 14.03.2006 nor assailed the sale deed dated 24.03.2006 itself established apparent and implied collusion between the brother Arjun Dass; in view thereof, the Courts below rightly held that the sale deed dated 24.03.2006 was not hit by the doctrine of *lis pendens*.

10. In the case in hand, suit for declaration seeking ownership and possession over the suit property on the basis of family settlement with the sister-defendant No.1 was filed on 27.01.2006. Defendant No.1

filed her admitted written statement on 08.02.2006. The suit was fixed for consideration. However, in the meanwhile, defendant No.2 while claiming herself to be the bona fide purchaser on the basis of sale deed dated 24.03.2006 (Ex. D-3) got herself impleaded and contested the suit. In such circumstances, it was essential for defendant No.1 to have appeared as witness in the suit to endorse the stand in the written statement about the family settlement with the plaintiff and also to explain the fraud if any, or deny the execution of Power of Attorney by her in favour of her sister-in-law-Santosh and the consequential sale deed dated 24.03.2006 by Smt. Santosh in favour of defendant No.2. In such circumstances, the Courts below were right in discarding the plea of there being any family settlement between plaintiff and defendant No.1 *qua* the subject property which otherwise was not even proved by way of any other independent evidence.

11. In view of the aforesaid, the impugned judgments dated 16.03.2015 and 16.01.2020 passed by the Courts below, being based on proper appreciation of pleadings as well as the evidence available on record, there being no misreading or misinterpretation of pleadings and evidence, the present appeal being devoid of merits is thus, dismissed.

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

21.04.2026
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>