**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****144****RSA-2431-2025 (O&M)****Date of decision: 12.01.2026****Chander Singh****...Appellant(s)****Vs.****Bhagirath and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Deepkaran Dalal, Advcoate with
Mr. Yoginder Rana, Advocate for the appellant.

NIDHI GUPTA, J.**CM-8342-C-2025**

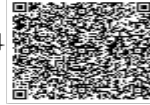
Prayer in this application filed under Section 151 CPC is for
condonation of delay of 43 days in refiling the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly
supported by an affidavit of clerk of Id. counsel for the applicant-
appellant, the same is allowed and delay of 43 days in refiling the appeal
is condoned.

RSA-2431-2025 (O&M)

Present Second Appeal has been filed by the plaintiff against
the concurrent judgments and decrees of the learned Court below;
whereby suit filed by the appellant for permanent injunction restraining
the defendants from interfering in the joint user and possession of the

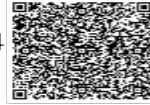


plaintiff qua the Baithak in dispute; and ousting the appellant from joint possession of the said Baithak; and demolishing the room and raising any construction over the Chabutra of Baithak in dispute, has been dismissed by both the Courts below.

2. It was pleaded in the plaint that the plaintiff and defendants belong to the same family. The defendant No.1 is cousin brother and defendant No.2 is the uncle of the plaintiff. There was a joint Baithak/ Suit property, of the family. Suit property was kept as joint property as it was being used by all family members, including the plaintiff. However, defendants are bent upon illegally alienating the suit property. Accordingly, present suit for permanent injunction was filed on 27.05.2015.

3. Upon appraisal of the evidence led by the parties, the Civil Judge (Junior Division), Palwal had dismissed the suit of the plaintiff vide judgment and decree dated 31.03.2018. The Civil Appeal filed by the plaintiff was dismissed by the District Judge, Palwal vide judgment and decree dated 22.01.2025. Hence, present Second Appeal by the plaintiff.

4. It is *inter alia* submitted by learned counsel for the appellant that learned Courts below were in error in non-suiting the appellant as they failed to appreciate that plaintiff had duly proved his right in the suit property as he was a son of Govind, son of Fattan. In passing the impugned judgments and decrees, the learned Courts below have ignored the deposition of PW1 and PW2 and deposition of DW1, DW2 and DW3 about nature and usage of the suit property by the family members



including the plaintiff. It is submitted that from the above evidence by both the parties, it is clear that although all 5 sons of Fattan were living separately but the suit property was being used for common purposes by the family. Thus, plaintiff being grandson of Fattan was entitled to access and use the property for common purpose as other family members. It is contended that Id. Courts below failed to appreciate that defendants have been misappropriating the suit property and denying access to the plaintiff by claiming themselves to be the exclusive owners. It is submitted that in the absence of injunction, defendants would diminish the value of suit property by demolishing the same which will result in irreparable harm and injury to the plaintiff. It is accordingly prayed that the present appeal be allowed, and the impugned judgments and decrees of the Courts below be set aside.

5. No other argument is raised by learned counsel for the appellant. I have heard learned counsel and perused the case filed in detail. I find no merit in the submissions advanced on behalf of the appellant.

6. It is admitted fact on record that the suit property is joint property. This fact has been admitted by the plaintiff in his cross-examination that the suit property is joint property of his father and his father's brothers and they have 1/5th share each in the property. Plaintiff has also admitted in his cross-examination that his father is alive. Plaintiff had examined his son Satbir Singh as PW3, who had admitted in his cross-examination that all his 5 grandfathers had share in the suit property; and

that all the co-sharers are in possession of their share in the property. Thus, the parties being admitted co-sharers in the suit property, injunction cannot be granted against co-sharer.

7. Furthermore, plaintiff has failed to establish his exclusive right to the Baithak in dispute. On the contrary, plaintiff has admitted that Baithak was jointly owned by all parties and was in the admitted joint usage of all parties. Clearly, injunction cannot be granted against co-sharer.

8. Learned counsel for the appellant is unable to dispute or controvert the above said facts and findings.

9. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

10. Pending applications, if any, stand disposed of.

12.01.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE