

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****137****CR-3716-2026 (O&M)****Date of decision: 04.05.2026****Jogi Ram and another****...Petitioner(s)****Vs.****Sita Ram and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sanjiv Kumar Aggarwal, Advocate (through V.C.)
and Ms. Nissim Aggarwal, Advocate
for the petitioners.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the plaintiffs seeking setting aside of the order dated 31.05.2024 (Annexure P-1) passed by learned Civil Judge (Junior Division), Kaithal; whereby application filed by the petitioners under Order 39 Rules 1 and 2 read with Section 151 CPC has been dismissed; **and** order dated 24.04.2026 (Annexure P-2) passed by learned Additional District Judge, Kaithal; whereby application for condonation of delay in filing Civil Miscellaneous Appeal against the order dated 31.05.2024, has been dismissed.

2. It is *inter alia* submitted by learned counsel for the petitioners/plaintiffs that the learned District Courts were in error in dismissing the application under Order 39 Rules 1 and 2 read with Section 151 CPC filed by the petitioners as they failed to appreciate that



petitioners have succeeded in proving the prima facie case, and balance of convenience in their favour; and had also demonstrated that they would suffer irreparable loss and injury if the injunction is not granted to them. It is submitted that learned First Appellate Court ought to have been liberal in granting condonation of delay and has erred in not recording any findings on the merits of the case.

3. It is further submitted by learned counsel for the petitioners that the learned Trial Court has failed to consider the fact that when a co-sharer does some act on the joint land to the exclusion of the other co-sharer in joint possession, then such co-sharer is entitled to seek injunction as the plaintiffs-petitioners in the present case.

4. Learned counsel for the petitioners further submits that the Trial Court has failed to appreciate the fact that the defendants have not shown any document to prove that they are in exclusive possession of the land in question as pleaded by them in the written statement.

5. It is further submitted by learned counsel for the petitioners the learned Trial Court has failed to appreciate that the defendants No.1 to 4 in the written statement admitted that in the revenue record the plaintiffs have been shown to be in joint possession of the suit land and they have failed to prove prima facie that plaintiffs were not in any portion of the suit land or in joint possession. Therefore, the learned Trial Court should have granted injunction in favour of the petitioners.

6. Ld. counsel for the petitioners further submits that the learned Trial Court has failed to appreciate the jamabandi for the year



2021-22 in which the plaintiffs and the defendants have been shown to be the co-owners in joint possession of the suit land in Khasra No.228 and 229.

7. In support, learned counsel for the petitioners has relied upon following judgments: -

1. **Satish Kumar Saini v. Laxmi Devi, (Punjab And Haryana): Law Finder Doc Id # 2822850;**
2. **Bachan Singh v. Swaran Singh, (P&H)(DB): Law Finder Doc Id # 18843; and**
3. **Suraj Bhan (Since Deceased) v. Lal Singh, (Punjab And Haryana): Law Finder Doc Id # 2711924.**

8. It is accordingly prayed that the present Revision Petition be allowed; and the impugned orders be set aside.

9. No other argument is raised on behalf of learned counsel for the petitioners. I have heard ld. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the petitioners.

10. Brief facts of the case in chronological order are as follows: -

28.03.2024: The petitioners had filed instant suit for separate possession by way of partition and permanent injunction on 28.03.2024 (Annexure P-3).

28.03.2024: Petitioners had also filed an application dated 28.03.2024 (Annexure P-4) for temporary injunction.



28.05.2024: The respondents had filed written statement to the suit (Annexure P-5); and reply (Annexure P-6) to the injunction application on behalf of defendants No.1 to 4.

31.05.2024: Vide order dated 31.05.2024 (Annexure P-1), the learned Civil Judge had dismissed application of the petitioners for grant of ad interim injunction holding that no prima facie case is made out.

30.01.2025: Petitioners had challenged the said order dated 31.05.2024 before the learned District Court vide Civil Miscellaneous Appeal filed on 30.01.2025 (Annexure P-7).

30.01.2025: Alongwith the said appeal, petitioners had also moved application dated 30.01.2025 (Annexure P-8) for condonation of delay of 213 days/about 7 months in filing the said appeal.

Nil: Reply dated nil was filed by the defendants to the application for condonation of delay.

24.04.2026: Vide second impugned order dated 24.04.2026 (Annexure P-2), the application for condonation of delay has been dismissed.

11. Perusal of the plaint (Annexure P-3) filed by the petitioners shows that in para 2 thereof, petitioners have categorically admitted that:

“12 That the plaintiffs are co-sharers in joint possession of the suit land fully detailed and described in para no.1 of the plaint alongwith the defendants.”

12. It is the clear undisputed position in law that injunction cannot be granted against a co-sharer; unless co-sharer is able to prove



exclusive possession. Till partition, every inch of land belongs to every co-sharer.

13. Admittedly, as per the revenue record, parties are shown to be co-sharers in the joint possession of the suit land. The said revenue entries have been disputed by the defendants in their written statement wherein it has been stated that petitioners/plaintiffs are not in possession of any part of suit land. Needless to say, the said fact will be determined upon leading of evidence by the parties. However, petitioners have been unable to show their exclusive possession over the suit property. In fact, the learned Civil Judge (Junior Division), Kaithal in para 14 of the impugned order dated 31.05.2024 (Annexure P-1) has categorically recorded that: -

“14. It is an admitted fact that all the co-sharers are in possession of the suit property & have raised constructions in the land in their possession. The photographs placed on file by the learned counsel for the respondents/defendants is not disputed by the learned counsel for the applicants/plaintiffs meaning thereby that the residential houses of respondents/defendants No.1 & 2 are constructed on the suit property.....”

14. Thus, petitioners have been unable to make out their prima facie case in their favour. Petitioners have also been unable to make out any balance of convenience in their favour; and have been unable to demonstrate that irreparable harm shall be caused to them, if injunction is not granted.



15. Furthermore, petitioners have also been unable to show sufficient cause for the delay in filing the Civil Miscellaneous Appeal before the learned First Appellate Court. Perusal of the application (Annexure P-8) filed by the petitioners for seeking condonation of delay in filing the appeal shows that only reason given in para 2 is as follows: –

“2. That appellants/applicants are simpleton villagers and having no knowledge of about the Court proceedings. The impugned order of dismissal of stay application was passed on 31.05.2024 and Courts remained closed due to summer vacation in the month of June 2024, thereafter, the applicants/plaintiffs forget to enquire about the present case from his counsel.” (Emphasis added)

16. Thus, petitioners have clearly admitted that they have ‘forgotten’ to pursue the present case. Most definitely, the same does not constitute ‘sufficient cause’ under law for condonation of inordinate delay of 213 days in filing Civil Miscellaneous Appeal. As such, no error can be found in the order dated 24.04.2026; whereby application for condonation of delay of 213 days has been dismissed for the following reasons: -

“7. It is normally seen that even rustic villagers contact their counsel on each and every date of hearing when property rights are involved. Even the advocates normally call the parties to their office prior to the final arguments in their main case or on any injunction application. It is not the case of the appellants that they had left the country and as such could not contact their counsel or were in any mental distress or were physically incapable to meet their counsel or call him

telephonically to inquire about their case. Such alleged ignorance about their case proceedings especially the passing of the order against them in the injunction application does not give them a right to file the appeal after the expiry of the period of limitation merely on the basis of illiteracy.”

17. I find no error in the aforesaid reasoning of the learned first Appellate Court. The aforesaid judgments relied upon by learned counsel for the petitioners are distinguishable on facts and law and petitioners cannot derive any benefit from the said judgments.

18. Learned counsel for the petitioners are unable to controvert or dispute the above said facts and findings.

19. In view of the above, present Revision Petition stands **dismissed.**

20. Pending application(s) if any also stand(s) disposed of.

04.05.2026

Divyanshi

Whether speaking/reasoned:
Whether reportable:

(NIDHI GUPTA)

JUDGE

Yes/No
Yes/No