

**RSA-2198-2025 (O&M)****112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****RSA-2198-2025 (O&M)****Date of Decision:18.02.2026****THE STATE OF PUNJAB AND OTHERS****...Appellants****Vs.****RAM LAL (SINCE DECEASED) THROUGH LRS AND OTHERS****...Respondents****CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL****Present: Mr. I.S. Kingra, Senior DAG, Punjab.****VIRINDER AGGARWAL, J. (Oral)****CM-7468-C-2025**

This is an application filed under Section 5 of the Limitation Act, 1963, for condonation of delay of 28 days in filing the present appeal.

For the reasons mentioned in the application, duly supported by an affidavit and in the interest of justice, delay of 28 days in filing the appeal is condoned.

CM is disposed of.

CM-7469-C-2025

The present application has been filed under Section 151 CPC for exemption from filing the certified copies of judgment and decree dated 03.09.2022 and 24.01.2025, grounds of appeal dated 01.10.2022.

For the reasons mentioned in the application, duly supported by an affidavit, CM is allowed as prayed for.

RSA-2198-2025

1. The appellants/defendants have preferred the present regular second appeal against the concurrent judgments and decrees of the Courts

**RSA-2198-2025 (O&M)**

below, whereby the suit filed by the respondent/plaintiff seeking possession of land measuring 1 kanal and 13 marlas, out of a total area of 3 kanals and 14 marlas in Khewat No. 62/58, Khatoni No. 83, Khasra No. 837 (3-14), situated within the revenue limits of Village Thappal, H.B. No. 322, Tehsil Anandpur Sahib, District Rupnagar, was decreed. The decree also granted consequential relief of permanent injunction, restraining the defendants from raising any further construction, superstructure, or carrying out any activity in any manner over any part of the suit land.

2. Briefly stated, the respondent/plaintiff filed the present suit claiming to be one of the co-owners of land measuring 3 kanals and 14 marlas in Khasra No. 837 (3-14), as fully detailed in the plaint. The plaintiff alleged that defendant Nos. 5 and 6 had encroached upon a portion of this land, measuring 1 kanal and 13 marlas, and had constructed a school building thereon. It was further alleged that the defendants were threatening to raise additional construction over the remaining land. A notice under Section 80 CPC was duly served upon the defendants. Defendant No. 5 submitted a reply, which was vague and non-committal, and the encroachment remained unremoved. In view of these circumstances, the respondent/plaintiff instituted the present suit seeking possession and removal of encroachment. Defendant Nos. 1, 3, 4, and 5 contested the suit by filing a joint written statement, denying any encroachment on the plaintiff's land. They further contended that it was the plaintiff who had encroached upon land belonging to the Gram Panchayat, which had been vacated at the time of demarcation. They alleged that the plaintiff was now attempting, under the guise of the present suit, to encroach upon land belonging to the defendants. Defendant No. 6 filed a

**RSA-2198-2025 (O&M)**

separate written statement raising similar contentions. The defence of defendant No. 2 was struck off. Upon examination of the pleadings, the Court framed the necessary issues for trial. After recording evidence from both parties, the learned Civil Judge decreed the suit in favor of the respondent/plaintiff, holding that the defendants had indeed encroached upon the suit land. Thereafter, an appeal was filed by the appellant/State before the learned District Judge, Rupnagar, which was dismissed vide judgment and decree dated 24.01.2025, thereby upholding the decree passed by the trial Court.

3. Aggrieved by the judgments and decrees passed by the Courts below, the present appeal has been filed. Learned State counsel contended that the learned Courts below erred in recording a finding that the defendants had encroached upon a portion of Khasra No. 837 (3-14). It was submitted that the demarcation reports, marked as Ex. P-2 and P-12, were not proved by any competent revenue official who actually conducted the demarcation. The reports were prepared in the absence of the defendants, and no independent verification by an official responsible for the demarcation was placed on record.

4. It was further submitted that the school in question has been in existence for more than 40 years, and the respondent/plaintiff examined only one witness, PW-1, Rajinder Pal, who is one of the legal representatives of the deceased co-owner Ram Lal. However, PW-1 was not present at the time when the demarcation was conducted and, therefore, could not give any firsthand account of the encroachment.

**RSA-2198-2025 (O&M)**

5. Learned State counsel argued that the findings recorded by the Courts below were based on a misreading and misinterpretation of the evidence on record, and that inadmissible evidence was improperly relied upon to reach the conclusion that the defendants had encroached upon the suit land. In these circumstances, it is submitted that the judgments and decrees of the Courts below are legally unsustainable and liable to be set aside.

6. I have perused the judgments passed by both the Courts below. It is observed that Ex. P-12, the demarcation report, was submitted by the Field Kanungo, who had been appointed as Local Commissioner during the pendency of the suit vide order dated 20.11.2018. Despite having been afforded ample opportunities to raise objections, the appellants/defendants did not file any objections to the report of the Local Commissioner.

7. It is noted that defendant No. 6 moved an application seeking the appointment of a different expert as Local Commissioner, which was dismissed vide order dated 04.05.2022 on the ground that two demarcations had already been conducted. Consequently, the demarcation report submitted by the Local Commissioner, prepared in the presence of the appellants/defendants during the pendency of the suit, does not require formal proof through the examination of the Local Commissioner. Parties are, however, entitled to submit objections, if any, to the report. In the present case, none of the parties filed any objection to Ex. P-12. It is well-settled that parties may call the Local Commissioner for cross-examination only on the basis of objections submitted to the report. In the present case, the appellants/defendants did not avail themselves of this right.

**RSA-2198-2025 (O&M)**

8. As regards the contention of learned counsel for the appellants that the demarcation was carried out in their absence, it is pertinent to note that notice of demarcation (Ex. P-14) was duly received by the Head Mistress of Government Model School, Thappal, and the Sarpanch of Gram Panchayat Thappal. The demarcation itself was conducted in the presence of Harpreet Kaur and Iqbal Singh, a teacher, who signed the attendance sheet (Ex. P-15). Thus, it is evident that the Local Commissioner inspected the site personally and conducted the demarcation in the presence of representatives of the defendants.

9. In view of the above, the learned Courts below did not commit any illegality or infirmity in relying upon the report of the Local Commissioner. The report clearly established that the school building had been constructed over 1 kanal and 13 marlas of the plaintiffs' land. The Naksha Tafavat (Ex. P-13) accurately depicts the encroached portion. Accordingly, the suit was rightly decreed by both the Courts below.

10. It is further emphasized that the learned State Government, being the protector of rights of citizens, cannot be held to be adversely possessing the land of a private citizen. The conclusions reached by both the trial Court and the appellate Court are, therefore, legally sound and do not call for interference.

11. Finding no merit in the appeal, the same is dismissed.

(VIRINDER AGGARWAL)
JUDGE

18.02.2026
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RSA-2198-2025 (O&M)

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