



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215

RSA-4784-2013(O&M)

Date of decision: 27.04.2026

Shiv Ram (since deceased) through his LRs

...Appellant(s)

Vs.

Raj Kumar Rajal and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Diwan S.Adlakha, Advocate and
Mr. Ajay Chauhan, Advocate
for the appellants.

NIDHI GUPTA, J.

CM-12871-C-2013

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 202 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant No.1, the same is allowed and delay of 202 days in filing the accompanying appeal is condoned.

RSA-4784-2013 (O&M)

The plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned District Courts, whereby suit filed



by the appellant for declaration and consequential relief of permanent injunction, has been dismissed by both the District Courts.

2. At the very outset, it may first be pointed out that although the present appeal is of the year 2013, notice is yet to be issued in the main appeal. The matter had already been dismissed for non-prosecution vide order dated 20.05.2016; whereafter it was restored vide order dated 20.09.2016. Notice in the application for condonation of delay of 202 days in filing the appeal was issued thereafter on 12.12.2017. Even thereafter, appellant has been lackadaisical in pursuing the present appeal *in as much* as the matter has been repeatedly adjourned either at request of, or due to non-appearance of learned counsel for the appellants on 13.07.2017, 08.11.2017, 21.11.2017, 19.07.2019, 29.08.2019, 31.10.2019, 25.02.2020, 11.02.2025, and 30.07.2025.

3. Notwithstanding the above conduct of the appellant, purely in the interest of justice, this Court is considering the matter on merits.

4. It was the pleaded case of the appellants that previously Atma Ram/father of the plaintiff, and Kishori Lal were joint owners in possession to the extent of 1/4th share each in agricultural land total measuring 5K 14M. They also had other properties. Atma Ram had filed a Civil Suit No. 233 dated 22.03.1938 seeking possession of a house by way of partition. It was pleaded that in the said suit, a Compromise dated 30.05.1938 had been affected and the entire property situated at Bilaspur including the suit property had fallen in the share of Atma Ram; as a result of which Atma Ram became exclusive owner of the same. Kishori Lal had



also agreed to pay Rs.120/- to Atma Ram. Kishori Lal had died in 1978. As revenue entries still existed in the name of Kishori Lal as co-owner, defendants took advantage of the same and got sanctioned Mutation No. 3978 dated 21.09.2002 in their names. Hence, present suit was filed on 18.03.2003 seeking declaration that plaintiff is owner in possession of half share of land measuring 5K 14M; and entries contrary to that in the revenue record showing Kishori Lal as owner to the extent of 1/4th share; and Mutation No. 3978 dated 21.09.2002 of inheritance of Kishori Lal in the name of the defendants are illegal, null and void; and consequential relief of permanent injunction restraining defendants from alienating in the peaceful possession of the plaintiff over the suit land.

5. Upon appraisal of the pleadings and the evidence led by the parties, the Id. Civil Judge (Senior Division), Yamuna Nagar at Jagadhri had dismissed suit of the plaintiff vide judgment and decree dated 16.12.2009. The Civil Appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Yamuna Nagar at Jagadhri vide judgment and decree dated 19.11.2012. Hence, the present second appeal by the plaintiff.

6. It is *inter alia* submitted by learned counsel for the appellants that learned District Courts were in error in non-suiting the plaintiff as they failed to appreciate that Shiv Ram/plaintiff/predecessor-in-interest of the appellants is the son of Atma Ram; and this fact found corroboration from the Revenue Record i.e. Jamabandi for the year 1972-73 Ex.P-9; Jamabandi for the year 1997-98 Ex.P-6; and Jamabandi for the year 2002-2003 Ex.P-8.



As such the impugned judgment and decrees being against the revenue record, are not sustainable and liable to be set aside.

7. Learned counsel for the appellants further submits that the Ld. Courts below have gravely erred in relying upon the documents placed on record by the defendants/respondents mentioning therein that father name of Shiv Ram as Lalji Ram. It is submitted that the documents relied upon have not even been proved as per law. Moreover, Sadhu Ram PW-2 has specifically and categorically deposed that name of the father of Shiv Ram as Lalji Ram has been recorded in the documents by mistake on the part of the Shiv Ram himself. However, the Ld. Courts below without appreciating the evidence in its true perspective, have passed the impugned Judgements and decrees.

8. It is further submitted by learned counsel for the appellants that the Ld. Courts below have further gravely erred in wrongly interpreting the evidence adduced by the appellants/plaintiffs. It is submitted that all the plaintiff witnesses have categorically deposed that Shiv Ram is the son of Atma Ram and Atma Ram had filed a suit no. 233 dated 22.03.1938 titled as "Atma Ram versus Kishori Lal" which was decided on 30.05.1938 on the basis of Compromise. Accordingly, the property which is the subject matter of the present suit had come in the share of Atma Ram. As such, Shiv Ram being the son of Atma Ram is entitled for the relief claimed.

9. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Id. District Courts be set aside.



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

11. Perusal of the record of the case shows that there are concurrent findings of fact returned by both the District Courts that plaintiff was son of Lalji Ram and not of Atma Ram; and, therefore, he cannot lay claim to property of Atma Ram which came to the share of Atma Ram vide judgment and decree dated 30.05.1938. No doubt in the Revenue Record i.e. Jamabandi for the years 1972-73 Ex.P-9, 1997-98 Ex.P-6 and 2002-2003 Ex.P-8, name of father of the plaintiff is recorded as Atma Ram. However, paternity is not determined on the basis of revenue entries.

12. The said revenue entries do not help the case of the appellant as a perusal of the aforesaid Jamabandis shows that in the said Jamabandis, Atma Ram is shown to be son of Gainda Ran; whereas plaintiff has claimed himself to be son of Atma Ram s/o Ganga Ram. Thus, even the connection sought to be made by the plaintiff through the said Jamabandis as being son of Atma Ram son of Ganga Ram, is not proved to be correct. Admittedly, plaintiff has failed to produce any document such as Birth Certificate or any other document to prove that he is son of Atma Ram. In fact, all other documents on record except for the aforementioned revenue record show that name of father of the plaintiff is actually Lalji Ram.

13. Furthermore, plaintiff-Shiv Ram had expired whereupon Death Certificate was issued by Registrar (Birth and Death), Office of Incharge, Primary Health Center, Bilaspur. Even in the said Death Certificate Ex.D2,



name of father of the plaintiff-Shiv Ram is shown to be Lalji Ram. No efforts whatsoever were made by the appellants to correct the same.

14. Even further, plaintiff himself has opened his Bank Account in the Punjab National Bank Yamuna Nagar on 14.03.1983. Perusal of the said Bank Account statement Ex.D3 for the period 26.05.2008 to 03.02.2009 shows that plaintiff has got recorded name of his father in his Bank Account as Lalji Ram. Even in the record of Electricity Department, while issuing electric connection to the plaintiff, name of his father is recorded as Lalji Ram. Even in the receipt Mark A issued by Bilaspur Graveyard Samiti at the time of last rites of Shiv Ram, name of father of Shiv Ram is shown to be Lalji Ram.

15. Besides the above documentary evidence, even PW1 Sadhu Ram, who is brother-in-law (Sala) of Atma Ram and who was witness of the plaintiff, has admitted that even in the Army record, Bank record, as well as in the Electricity Department record, name of father of the plaintiff is recorded as Lalji Ram. Even PW2 Sanjeev Kumar, son of plaintiff, in his Affidavit Ex.PW2/A has also deposed to the effect that name of father of the plaintiff is Lalji Ram.

16. Even Defendant No.1/Raj Kumar while appearing as DW1 has stated that plaintiff was his real brother and name of their father was Lalji Ram. DW1 has further deposed that they are 3 brothers, namely, Shiv Ram, Jai Parkash and he himself. Another Raj Kumar has appeared as DW2 and has supported the statement of DW1.



17. Learned counsel for the appellants is unable to controvert or dispute the above said facts, findings, and evidence.

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

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

27.04.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

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