

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****229****RSA-6097-2016 (O&M)****Date of decision: 28.01.2026****Ashu****...Appellant(s)****Vs.****Vijay Angrish and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. D.K.Sihag, Advocate for the appellant.

Mr. Ankit Saini, Advocate
for respondent No.1.

NIDHI GUPTA, J.**CM-16052-C-2016**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 19 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, the same is allowed and delay of 19 days in filing the appeal is condoned.

RSA-6097-2016 (O&M)

Plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned District Courts; whereby suit filed by the appellant for separate possession by way of partition and permanent injunction, has been dismissed by both the District Courts.



2. Vakalatnama filed on behalf of respondent No.1 in Court today is taken on record.

3. The pleaded case of the appellant in the plaint was that the plaintiff and defendants are real brother and sisters. The owner of the suit house, as described in the plaint, was their mother, Raj Dulari. Raj Dulari had died intestate on 08.12.1996. Father of the parties, namely, Rajinder Nath Sharma had also died on 16.03.1998. It was contended that as no Will was executed regarding the suit house, plaintiff being daughter and class-I heir of owner/Raj Dulari, had become owner to the extent of 1/4th share alongwith defendants. It was pleaded that plaintiff had requested defendant No.1 to separate her 1/4th share by metes and bounds but defendant No.1 had refused to do so. Plaintiff had even served legal notice upon defendant No.1. It was pleaded that defendants had threatened to alienate the suit house; thereby causing loss to the plaintiff. With these pleadings, present suit was filed on 08.02.2010.

4. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Patiala had dismissed the suit of the plaintiff vide judgment and decree dated 22.05.2014. The Civil Appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Patiala vide judgment and decree dated 02.08.2016. Hence, the present second appeal by the plaintiff.

5. It is *inter alia*, submitted by learned counsel for the appellant that it is admitted fact on record that the plaintiff is a class-I legal heir of Raj Dulari alongwith the defendants. It is contended that accordingly,



plaintiff is entitled to 1/4th share in the suit house. Learned counsel submits that Family Settlement dated 08.08.2004 set up by the defendants, as per which plaintiff had allegedly relinquished her share in the suit property, was never admitted by the appellant. Evidence in this regard has been misread and misinterpreted by both the District Courts. It is submitted that the learned District Courts were in error in placing reliance upon the alleged Family Settlement as no document regarding the said oral settlement was produced on record by the defendants. As such, in the absence of any such document, there was no material evidence available with the District Courts to establish that any such alleged oral settlement dated 08.08.2004 has taken place between the parties.

6. Learned counsel for the appellant further submits that it is the case of the defendants that two maternal uncles were present at home at the time of settlement. However, only one maternal uncle has been examined. It is pointed out that other maternal uncle, who was examined as DW3, has deposed against defendants, as he stated that oral settlement was only qua liquid assets and ornaments and not qua the suit property.

7. It is further submitted by learned counsel for the appellant that both the Courts below have totally failed to appreciate the very important aspect of the case that any such oral settlement is totally different from oral family partition because had there been any such oral family partition, then the appellant could have definitely got her share in



the suit property which also shows that both District Courts misread and misinterpreted the word oral family settlement and oral family partition.

8. It is submitted that therefore, the judgments of the District Courts are based on surmises and conjectures and deserve to be set aside.

9. *Per contra*, learned counsel for respondent No.1/defendant No.1 vehemently opposes submissions made on behalf of the appellant and submits that in their written statement, defendants had taken categorical plea that there was oral settlement entered into between the parties on 08.08.2004. It is submitted that learned District Courts have given concurrent findings of fact that the said settlement has been admitted to by the plaintiff in her evidence, while appearing as PW1. It is submitted that after the death of Raj Dulari, respondent No.1 had been offered job on compassionate appointment which the respondent No.1 had given to the plaintiff. It is further pointed out that the appellant was unmarried at the time of Settlement and it was respondent No.1, who had taken care of her and even borne all her marriage expenses. It is contended that this Court in Second Appeal cannot disturb the concurrent findings returned by both the Courts below. He accordingly prays for dismissal of the present Appeal.

10. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of respondent No.1.

11. Although appellant is denying the Settlement dated 08.08.2004 however, perusal of her cross-examination dated 27.09.2013



of the plaintiff/PW1 shows that the plaintiff has admitted that *"It is correct that on 8.8.2004, a Family Settlement arrived at between the parties."* Plaintiff as PW1 has further admitted that all the claims have already been settled between the family after the death of her parents. Plaintiff as PW1 has also admitted that her father has no other property except the suit house and all the defendants are residing separately in their own houses. Plaintiff in her cross-examination has also admitted not only the oral Family Settlement between the parties, but she has also stated that her brother i.e. defendant No.1 had incurred entire expenses of her marriage. This fact has been further endorsed by sister of the plaintiff PW2/defendant no.3, who has stated in her evidence that her marriage and her sister's marriage were solemnized by their brother/defendant No.1. PW2 has admitted that defendant No.1 and their father Rajinder Nath Sharma looked after the entire family. Thus, although PW1 and PW2/defendant No.3 have respectively denied oral Family Settlement dated 08.08.2004. However, in their cross-examination, both have admitted the said settlement. Plaintiff has further deposed as PW1 that her marriage was solemnized on 05.02.1999 and pre-marriage formalities were completed by defendant No.1 and her maternal uncles. PW1 has further admitted that various articles including bed, scooter et cetera were given by defendant No.1 and that sum of Rs.2.5 lacs was spent by defendant No.1 on her marriage.

12. PW1/plaintiff has also admitted that defendant No.1 had given No Objection Certificate as a result of which plaintiff got job on



compassionate appointment on 12.12.1997. Plaintiff has also admitted that at the time when defendant No.1 gave No Objection Certificate for appointment of plaintiff on compassionate ground, at that time, defendant No.1 himself was unemployed.

13. As regards the evidence of DW3, maternal uncle of the parties, plaintiff has read the deposition of the said witness piecemeal. Perusal of the complete deposition of DW3 shows that he has stated that the Family Settlement took place in his presence and no writing was executed regarding the same. DW3 has further stated that the sisters i.e. plaintiff and defendant No.3 were given cash funds in lieu of their shares in the suit house in pursuance to which, property documents were handed over to defendant No.1. Resultantly, defendant No.1 is presently in possession of the suit house in pursuance to Family Settlement. Thus, reliance of plaintiff upon the piecemeal reading of evidence of DW3 is incorrect. In view of these facts, injunction was rightly denied to the plaintiff as from the admission of PW1 and PW2, it is clear that defendant No.1 has performed his legal as well as his moral obligations towards the plaintiff.

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

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

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

28.01.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE