

2025:PHHC:122552



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA-1297-2025 (O&M)
Date of Decision: 04.09.2025

Madan Lal ... Appellant

Versus

Prehlad deceased through his LRs and others.

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Deepak Grover, Advocate, for the appellant.

VIKRAM AGGARWAL, J.

CM-4497-C-2025

Prayer in the present application preferred under Section 5 of the Limitation Act, 1963 is for condonation of delay in filing the appeal.

Heard.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed. The delay of 787 days in filing the appeal is condoned.

RSA-1297-2025.

This is defendant's appeal against the judgment and decree dated 10.11.2022 passed by the Court of District Judge, Palwal, dismissing the appeal filed against the judgment and decree dated 20.12.2016 passed by the Court of Civil Judge (Junior Division), Palwal, vide which the suit for declaration and permanent injunction filed by the plaintiffs, was decreed.

2. For the sake of brevity and convenience, the parties shall be referred to as per their original status.

3. The plaintiffs (Prehlad, Deshraj and Digamber, all sons of one Shri Gangadan) instituted a suit for declaration to the effect that they along with their mother Smt. Batashi Devi, sister Smt. Saukant and brother Hari, were owners in possession of a residential plot (fully described in the plaint) situated within the revenue estate of village Prithla, District Palwal (hereinafter referred to as 'the disputed plot').

4. The disputed plot was stated to have been allotted to the father of the plaintiffs, namely, Shri Gangadan by the Gram Panchayat of Village Prithla and the certificate of allotment issued in this regard, was registered on 15.10.1982. Mutation of ownership was also sanctioned and entered in the name of Shri Gangadan. He, then constructed a residential house over the disputed plot. However, he expired on 02.11.2011 after which, the disputed plot was inherited by the plaintiffs, their mother, sister and brother, being the legal heirs of Gangadan. The house constructed on the disputed plot is said to have collapsed due to passage of time. It was claimed that the defendant being a forceful person, had intended to take forcible possession of the said plot and was also threatening to raise construction over it. Under these circumstances, the suit was instituted.

5. The suit was opposed by the defendant. In the written statement, certain preliminary objections as regards non-maintainability, *locus-standi*, cause of action, estoppel, the suit being bad for non-joinder of necessary parties and the

plaintiffs not having approached the Court with clean hands, were raised. On merits, a stand was taken that the disputed plot along with other land of village Prithla, had been acquired by the Housing Board, Haryana and a residential colony had been built upon the same. Plot No. 57 was allotted to the defendant vide allotment letter dated 11.11.1997, after which the defendant was owner in possession of the same. It was also averred that the plot allotted to the plaintiffs had been cancelled by the Gram Panchayat, Prithla, whereafter the acquisition was done by the Housing Board, Haryana.

6. From the pleadings of the parties, the following issues were framed by the trial Court:-

- “1. Whether the plaintiffs are entitled to a decree for declaration as prayed for? OPP
2. Whether the plaintiffs are entitled to a decree for permanent injunction as prayed for?OPP
3. Whether the plaintiffs are entitled to a decree for possession as prayed for? OPP
4. Whether the suit of the plaintiffs is not maintainable in the present form? OPD
5. Whether the plaintiffs have got no *locus-standi* and no cause of action to file the present suit? OPD
6. Whether the plaintiffs are estopped by their own act, conduct and acquiescence to file the present suit? OPD
7. Whether the plaintiffs have not come with clean hands and have suppressed the true and material facts from the court? OPD
8. Whether the suit of the plaintiffs is bad for non-joinder of necessary parties? OPD
9. Whether the Gram Panchayat cancelled the allotment of the suit plot? OPD

10. Whether the suit of the plaintiffs is false, frivolous and vexatious in nature? OPD

11. Relief.”

7. Parties led their respective evidence.

8. Vide judgment and decree dated 20.12.2016, the trial Court decreed the suit. Appeal filed was dismissed by the District Judge, Palwal on 10.11.2022.

9. I have heard learned counsel for the appellant.

10. Learned counsel for the appellant submits that both Courts have gravely erred in decreeing the suit filed by the plaintiffs. He submits that the defendant had been able to prove on record that the disputed plot and other land in village Prithla, had been acquired after which plot No. 57 was allotted to the defendant. He submits that despite evidence having been led in this regard, the Courts did not examine the matter from the correct perspective. He submits that the impugned judgments and decrees are not sustainable.

11. I have considered the submissions made by the learned counsel for the appellant and find the same to be devoid of merit.

12. To discharge their onus, the plaintiffs proved their ownership over the disputed plot by way of allotment letter dated 15.10.1982 (Exhibit P.1), mutation Exhibit P.3 and jamabandis for the years 2002-03; 2007-08; 1992-93 and 1997-98 (Exhibits, P.2 and P.4 to P.7 respectively). The allotment letter dated 15.10.1982 shows that land measuring 3 marla had been allotted to Gangadan by the Gram Panchayat, Prithla. As per the

revenue record, the plaintiffs were found to be in possession of the said land.

13. Per contra, the defendant produced allotment letter dated 09.10.1997 (Exhibit D.1) issued by the Chief Revenue Officer, Housing Board, Haryana, Panchkula, as per which plot No. 57 had been allotted to the defendant.

14. The question which arose before the Courts was as to whether the disputed plot was the same as plot No. 57. Both the Courts came to the conclusion that from the evidence led on record of the case, it did not stand prove that the disputed plot had ever been in possession of the defendant or that the land had been acquired by the Housing Board, Haryana. It was found that none of the Jamabandis, produced on record, mentioned this fact and rather the said documents depicted the plaintiffs to be owners in possession of the disputed plot. Further, it was found that there was no evidence to prove that plot No. 57 was the same plot which had been allotted to the plaintiffs. It was rightly found that to prove this fact, the defendant was supposed to lead evidence. If he had taken possession of plot No. 57 from the Housing Board, Haryana, some demarcation should have been done. It was rightly found that the case of the defendant was merely based on oral submissions not proved by any cogent evidence. Both the Courts, therefore, rightly decreed the suit filed by the plaintiffs.

15. In fact, the first Appellate Court very rightly held as under:-

“20. In the corollary of above discussion, it is hereby held that suit filed by the plaintiffs is rightly decreed by learned trial court. Thus, appeal is not liable to be accepted. Before parting, it is made clear effect of the decree will be confined to 3 marlas of land allotted vide allotment letter Ex.P1 mentioned in the jamabandis Ex. P2 to Ex.P7 and before raising any sort of construction over this piece of land, plaintiffs will get the demarcation done so as to avoid any future ambiguity. Accordingly, no interference is warranted in the impugned judgment and decree dated 20.12.2016 whereby suit of plaintiff was decreed with costs. Appeal thus stands dismissed with costs.....”

16. This Court finds absolutely no reason to interfere in the concurrent findings of fact recorded by both the Courts. That being so, the instant appeal is found to be devoid of any merit and, accordingly, dismissed in *limine*.

17. Pending application(s), if any, shall also stand disposed of.

**[VIKRAM AGGARWAL]
JUDGE**

04.09.2025
ds

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