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

**RSA-2635-2023 (O&M)
Date of decision :06.08.2025**

KARNAIL SINGH

... APPELLANT

VERSUS

GURTEJ SINGH @ TEJ

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. R.M. Sharma, Advocate
for the appellant.

PARMOD GOYAL, J. (ORAL)**CM-8907-C-2023**

This is an application for condonation of delay of 184 days in refiling the present appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 184 days in refiling the present appeal, is hereby condoned.

Main Case

1. Aggrieved by the impugned judgment and decree dated 17.09.2018 passed by Additional Civil Judge, Sunam vide which suit for possession preferred by plaintiff-appellant was dismissed and the judgment and decree dated 20.07.2022, vide which the appeal preferred by the appellant-plaintiff has been dismissed, present appeal has been preferred.



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2. The sole contention of appellant is that appellant is seeking possession of suit land from respondent who is totally stranger and had got no title in the suit land. It is asserted that oral sale-deed is not binding upon appellant and, therefore, he is entitled to seek possession from the respondent. However, on perusal of impugned judgments, it is clearly made out that earlier also Karnail Singh i.e. present appellant had preferred a civil suit bearing No. 207 of 2007 against his co-sharers namely Chand Singh, Gurjant Singh, Singara Singh, Harbans Singh etc. for partition of land measuring 11 marlas including the present suit land bearing Khasra No. 181/13 (0-9), 182/2 (0-2), however, said suit was dismissed by the then Civil Judge (Junior Division), Sunam vide judgment dated 02.05.2011. Thereafter Karnail Singh alongwith Jarnail Singh had preferred Civil Appeal, the same was also dismissed vide judgment dated 05.11.2012 and even the Regular Second Appeal preferred by the appellant was dismissed vide judgment dated 05.11.2012. The suit for partition was thus dismissed.

3. Admittedly, suit land which was subject matter of earlier litigation is part of total property between co-sharers. On the other hand, respondent is claiming his rights through one of the co-sharers namely Chand Singh through unregistered sale-deed. Chand Singh had not been made party in the present case.

4. Admittedly, said Chand Singh had also appeared as DW2 in present suit and had stood by defendant Gurtej Singh stating that property to the extent of their shares stands sold to respondent. Therefore, it is clearly made out that admittedly respondent Gurtej Singh is only claiming his right through co-sharer Chand Singh. Since appellant has failed in partition suit against Chand Singh, for the reason that he had not sought partition for entire land, it is not open for him to seek possession from a person who is claiming through a co-sharer. The only remedy with the appellant is to seek the lands partitioned.



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5. I find no merit in the present appeal and the same is accordingly dismissed.

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

06.08.2025
manoj

(PARMOD GOYAL)
JUDGE

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