



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

**RSA No.632 of 2025 (O&M)  
Date of Decision: 06.08.2025**

**Smt. Anita and others**

**...Appellants**

**Versus**

**Saksham and others**

**...Respondents**

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Raj Kumar Chandana, Advocate  
for the appellants.

\*\*\*\*

**VIKRAM AGGARWAL, J (ORAL)**

**CM-2216-C of 2025**

Prayer in the present application filed under Section 151 CPC is for condonation of delay of 483 days in re-filing the appeal.

Heard.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed and the delay of 483 days in re-filing the appeal is condoned.

**CM-2217-C of 2025**

Prayer in the present application filed under Section 5 of the Limitation Act is for condonation of delay of 89 days in filing the appeal.

Heard.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed and the delay of 89 days in filing the appeal is condoned.

**Main case**

This is plaintiffs appeal against judgment and decree dated 16.03.2023 passed by the Court of Additional District Judge, Sonipat dismissing the appeal filed against the judgment and decree dated 18.10.2019 passed by the Court of Civil Judge (Junior Division), Gohana, vide which the suit for declaration and permanent injunction was dismissed.

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

3. The plaintiffs (Anita, Vidha Devi and Usha), all daughters of Jai Narain are the paternal aunts of defendants No.1 and 2, sisters of defendants No.3 and 4 and daughters of defendant No.5. The dispute is with regard to land measuring 3 Kanal 7 Marlas and 4 Kanals 17 Marlas (fully described in the plaint) situated in the Revenue Estate of Gohana, Tehsil Gohana, District Sonapat (hereinafter referred to as the disputed land) owned by defendant No.5-Jai Narain.

3.1 The case set up by the plaintiffs was that the suit property was joint Hindu family property and accordingly, the plaintiffs had a birth right in the same. However, defendant No.5, in connivance with defendants No.2 to 4, executed registered release deeds bearing No.7092 dated 22.01.2013 in favour of defendants No.1 and 2 with a view to deprive the plaintiffs of their valuable rights in the suit property. Mutations consequent to the execution of the release deeds were also sanctioned. It was claimed that the said release

deeds were illegal, forged and fabricated documents and were not binding upon the rights of the plaintiffs.

4. The defendants opposed the suit. Defendants No.1 and 3 initially appeared and filed a joint written statement taking preliminary objections regards maintainability, suppression of true and material facts, non-joinder and mis-joinder of necessary parties etc. On merits all averments were denied. However, subsequently, defendants No.1 and 3 were proceeded against *ex parte*.

4.1 Defendants No.2, 4 and 5 filed their joint written statement again raising certain preliminary objections. On merits it was pleaded that defendants No.1 and 2 were owners in possession of the suit property after execution of the release deeds dated 22.01.2013. It was denied that the suit property was joint Hindu family/ancestral property and it was claimed that the same was the self-acquired property of defendant No.5 as he had inherited the same from Dharam Chand by way of a Will. Dharam Chand had purchased the suit land from one Ram Dhan and Dariyav Singh.

4.2 It was also averred that the factum of the execution of the release deeds was in the knowledge of the plaintiffs and they had given their affidavits in this regard stating that they did not wish to take any share in the suit property.

5. Replication was not filed. From the pleadings of the parties, following issues were framed:-

1. Whether the plaintiffs are entitled for decree of declaration as prayed for ? OPP
2. Whether the plaintiffs are entitled for a decree of permanent injunction as prayed for ?OPP
3. Whether the suit is not maintainable in the present form ?OPD

4. Whether the plaintiffs have no cause of action and locus-standi to file the present suit? OPD
5. Whether plaintiffs are estopped to file the present suit by their own act and conduct ?OPD
6. Whether the suit is bad for concealment of true facts.
7. Relief.

7. Parties led their respective evidence. The trial Court dismissed the suit vide judgment and decree dated 18.10.2019 which led them to file an appeal which was also dismissed by the Court of Additional District Judge, Sonipat vide judgment and decree dated 16.03.2023, leading to the filing of the present second Appeal.

8. I have heard learned counsel for the appellants.

9. Learned counsel for the appellants *inter alia* submits that both Courts erred in dismissing the suit filed by the plaintiffs. It has been submitted that the suit land being joint Hindu family/ancestral property, defendants No.5 had no right to execute the release deeds. Learned counsel submits that the plaintiffs, being daughters had a right by birth in the suit property. Learned counsel has referred to the judgments under challenge and has submitted that the same are not sustainable.

10 I have considered the submissions made by learned counsel for the appellants but find the same to be devoid of merit.

11. Concededly, no evidence worth its name was produced by the plaintiffs to prove that the suit property was Joint Hindu family/ancestral property. It was rightly found by both Courts below that under the circumstances, the claim of the plaintiffs that the suit property was joint Hindu family/ancestral property failed. It was rightly found that properties are taken to be non-ancestral in the nature unless and until it is proved by

leading cogent evidence that the same were ancestral property. On the contrary, it was proved that the suit land was sold to Dharam Singh (grandfather of plaintiffs) by Dariya and Randhir vide registered sale deed dated 27.06.1972 and thereafter vide registered Will dated 24.08.1977 (Ex.DW2/B), Dharam Singh had bequeathed the land in favour of Jai Narain (defendant No.5) by excluding all other legal heirs.

12. It was also not proved that any income generated from some ancestral property had been utilized for purchase of the suit property which may also have proved the ancestral nature of the suit property.

13. As regards the release deeds being alleged to have been executed as a result of fraud, again no evidence was produced to even prima facie prove the same. It is well settled that a plea of fraud has not only to be pleaded but is also to be proved by leading cogent evidence.

14. It also came on record that mutation (Ex.P-3) of the suit property was effected in favour of defendant no.5 on the basis of Will dated 24.08.1977. This also proves that the suit property was not ancestral. The trial Court also rightly noticed Ex.DY which was a certified copy of affidavit filed by plaintiff No.2 in Civil Suit No.293 of 2014 wherein she had also tendered affidavit Ex.DX mentioning that she had given her 'No Objection' as regards the suit property being transferred in favour of Ram Pal.

15 Under the circumstances, the suit property was rightly found to be the self-acquired property of defendant No.5. Once it was so found, there would be no bar upon defendant No.5 to transfer the same. Both Courts therefore, rightly non-suited the plaintiffs.

I do not find any reason to interfere with concurrent findings recorded by both Courts.

That being so, I do not find any merit in the instant appeal and the same is accordingly dismissed.

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

**(VIKRAM AGGARWAL)**  
**JUDGE**

**August 06, 2025**

Rekha

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