



In the High Court of Punjab and Haryana, at Chandigarh

Second Appeal Order No. 7 of 2016 (O&M)

Date of Decision: 25.03.2025

Santosh Kumari

... Appellant(s)

Versus

Krishan Kumari and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vishal Gupta, Advocate
for the appellant(s).

Mr. R.K.Agnihotri, Advocate
for respondent No.1.

Anil Kshetarpal, J.

1. The appellant herein was defendant No.1 in the plaintiff's suit for declaration that she is owner in possession of the property as per the family settlement dated 15.08.2000. The same was dismissed in default under Order XVII Rule 3 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") as the plaintiff has failed to lead evidence despite granting five opportunities.
2. The First Appellate Court, in its discretion, has considered it appropriate to grant further opportunity to the plaintiff to lead evidence.
3. The discretion exercised by the First Appellate Court is neither perverse nor suffers from any patent illegality. Though, the learned counsel representing the appellant submits that the plaintiff cannot be granted an opportunity, however, the efforts of the Court should be to decide the cases

on merits and not on technicalities/defaults.

4. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned order. Hence, the present appeal is dismissed.

3. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 25, 2025

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No