



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

**RSA-3056-2023 (O&M)
Reserved on : 22.08.2025
Pronounced on : 02.09.2025**

Jagat Singh & Anr.

....Appellants

VERSUS

Mindo Kaur & Ors.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Karanjeet Singh Brar, Advocate for the appellants.

ALKA SARIN, J.

CM-10927-C-2023

1. For the reasons mentioned therein, the application seeking condonation of 601 days delay in refiling the appeal is allowed. The delay in refiling the appeal is condoned.

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2. The present regular second appeal has been preferred by the defendant No.2 and one Sudesh Kumari against the judgements and decrees dated 05.12.2016 and 27.08.2019 passed by the Trial Court and the First Appellate Court.

3. The suit for declaration and permanent injunction was filed by the plaintiff-respondent No.1 on the allegations that she was the owner of the plot in dispute measuring 100 square yards. One Tilak Raj had executed two agreements to sell dated 23.12.2002 and 8.4.2003 in her favour qua land measuring 100 square yards each and that she had raised construction on 100

square yards but the entire 200 square yards was under her possession. However, when the plaintiff-respondent No.1 learnt that Tilak Raj was not the owner of the land measuring 200 square yards and had no authority to execute any agreement to sell in her favour, the plaintiff-respondent No.1 purchased one plot measuring 100 square yards from defendant No.1-respondent No.2 herein vide sale deed No.4694 dated 12.08.2010 (Ex.PW10/G) and the mutation was also sanctioned in favour of the plaintiff-respondent No.1. However, according to the plaintiff-respondent No.1 the boundaries of the plot sold to her did not tally with the plot which was in her possession under the agreements to sell executed by Tilak Raj. Hence, the suit seeking a declaration that the dimensions mentioned in the sale deed are liable to be corrected and for permanent injunction restraining the defendants from illegally and forcibly dispossessing the plaintiff-respondent No.1 and taking possession of said plot measuring 100 square yards. The defendant Nos.1 and 2 contested the suit and denied the averments made in the plaint. It was denied that the boundaries mentioned in the sale deed dated 12.08.2010 were not correct or that the plaintiff-respondent No.1 was in possession. It was the stand taken that the plaintiff-respondent No.1 had constructed her house on the plot purchased by her vide sale deed dated 12.08.2010 and that the plaintiff-respondent No.1 was wanting to encroach on land not owned by her.

4. From the pleadings of the parties following issues were framed by the Trial Court :

1. Whether plaintiff is entitled to relief of declaration as prayed for ? OPP
 2. Whether plaintiff is entitled to relief of permanent injunction as prayed for ? OPP
 3. Whether the suit of the plaintiff is maintainable ?
OPP
 4. Whether the plaintiff has cause of action or locus standi to file the suit ? OPP
 5. Whether the plaintiff is barred by her act and conduct to file the suit ? OPD
 6. Whether the plaintiff has not come to the Court with clean hands ? If so, its affect ? OPD
 7. Whether the suit is bad for non-joinder of necessary parties ? OPD
 8. Whether the suit is not properly valued for purposes of court fee and jurisdiction ? OPD
 9. Whether the suit is barred by limitation ? OPD
 10. Whether the suit is barred u/o 2 Rule 2, CPC ?
OPD
 11. Relief.
5. Vide judgement and decree dated 05.12.2016 the Trial Court partly decreed the suit of the plaintiff-respondent No.1. While the relief of declaration was declined, the relief of permanent injunction was granted and the defendants were restrained from dispossessing the plaintiff-respondent

No.1 from suit property. Against the judgement and decree passed by the Trial Court, two appeals were filed – one by the plaintiff-respondent No.1 and the other by the defendant No.2 and one Sudesh Rani who claimed to have purchased the plot in dispute during the pendency of the litigation. Both the said appeals were dismissed by the First Appellate Court vide judgement and decree dated 27.08.2019. Hence, the present regular second appeal by the defendant No.2 and Sudesh Rani.

6. Learned counsel for the appellants has contended that both the Courts have erred in partly decreeing the suit of the plaintiff-respondent No.1 and granting an injunction in her favour. It is urged that the plaintiff-respondent No.1 was in possession of the plot purchased by her vide sale deed dated 12.08.2010 and was not in possession of the plot in dispute and therefore the suit for permanent injunction deserved to be dismissed. It is further submitted that there is a sale deed in favour of Sudesh Rani (appellant No.2) which proved that the plaintiff-respondent No.1 was not in possession.

7. Heard counsel for the appellants and perused the paperbook.

8. In the present case the suit of the plaintiff-respondent No.1 qua the relief of declaration stands dismissed by both the Courts. She has been concurrently held entitled to the relief of permanent injunction. It has been found that the plaintiff-respondent No.1 is in possession of the plot in dispute. In the absence of any cogent and reliable evidence led by the appellants to show that they were in exclusive possession of the plot in dispute and that there had been a partition, the Courts below have rightly

protected the possession of the plaintiff-respondent No.1. As correctly held, Sudesh Rani can seek partition of the jointly held property but having a sale deed in her favour would not give her (Sudesh Rani) the right to dispossess the plaintiff-respondent *de hors* the provisions of law.

9. In view of the above, no fault can be found with the judgments and decrees passed by both the Courts. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. No cogent and reliable evidence has been highlighted by the counsel for the appellants for this Court to take a contrary view from the one taken by both the Courts. No other point was argued.

10. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

02.09.2025

Ankur

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No