**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****141****RSA-5820-2019 (O&M)****Date of decision: 31.07.2025****Parwinder Kaur****...Appellant(s)****Vs.****Surinder Kaur****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Saloni Sharma, Advocate for the appellant.

NIDHI GUPTA, J.**CM-16682-C-2019**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 60 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by affidavit of the applicant-appellant, the same is allowed and delay of 60 days in filing the appeal is condoned.

RSA-5820-2019 (O&M)

Present Second Appeal has been filed by the defendant No.1 seeking setting aside of the concurrent judgments and decrees of the learned Courts below; whereby the suit filed by the plaintiff-respondent for mandatory injunction directing the defendant-appellant to vacate the residential house as described in the head note of the plaint, has been decreed by both the Courts below.



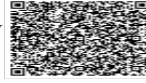
2. Brief facts of the case are that the appellant was married to defendant No.2 on 17.02.2014. In a petition filed by the appellant, exparte divorce has been granted on 25.05.2022. No child is born out of their wedlock. The respondent-plaintiff is mother-in-law of the appellant.

3. The appellant had filed an application under the DV Act against the respondent. In the meantime, the respondent had filed the present suit seeking mandatory injunction against the appellant directing her to vacate the suit house. The learned trial Court vide judgment and decree dated 30.08.2017 while decreeing the suit of the plaintiff had directed as follows:-

“12. In view of my aforesaid detailed discussions, suit of plaintiff is succeeds and is hereby decreed with costs to the effect that she is declared owner of the suit property, however, she would be entitled to vacate the same from the defendants only when the order passed in favour of defendant No.1 by the Court of Ms. Rubina Josan, Judicial Magistrate Ist Class, Hoshiarpur for having right to reside in the suit property is vacated or nullified. Decree sheet be prepared. File be consigned to Judicial Record Room, after due compliance.”

4. The appeal filed by the appellant was dismissed by the learned Additional District Judge, Hoshiarpur vide judgment and decree dated 20.07.2019 in the following manner: -

“Therefore, I uphold the findings of the learned trial court on all the issue, resultantly, the present civil appeal is without any merit, hence the same is dismissed with a rider that execution of decree is stayed till the appellant-defendant no.1



has right to reside in the house in dispute, as the matter of right to reside is pending in the competent court of Appellate Authority against the order dated 5.7.2018 and until order of right to reside is not vacated or nullified only after that respondent- plaintiff could seek vacation of her house."

5. It is now very fairly informed by Id. Counsel for the appellant that the appeal filed by her under the DV Act, has been dismissed vide order/judgment dated 21.04.2025. It is accordingly fairly submitted that nothing survives in the present appeal, and the same may be disposed off.

6. Heard.

7. Vide the above reproduced judgments and decrees, the appellant was granted right to reside in the house in dispute only till the final decision in the criminal appeal filed by the appellant against the dismissal of her complaint filed under DV Act by the order dated 05.07.2018 by the learned Judicial Magistrate, 1st Class Hoshiarpur. The criminal appeal filed by the appellant against the order dated 05.07.2018 now stands dismissed by the learned Additional Sessions Judge, Hoshiarpur vide judgment dated 21.04.2025. A copy of the said judgment has been handed over in Court today, which is taken on record.

8. As such, nothing survives in the present Second Appeal; and in compliance of the concurrent judgments and decrees of the learned Courts below, the appellant has to vacate the suit premises.

9. Keeping in view the undisputed facts as noticed above, the present Second Appeal stands **dismissed**.



10. Pending applications, if any, stand disposed of.

31.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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