



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

RSA No.1086 of 2023 (O&M)  
Date of decision: 27.08.2025

Gurdarshan Singh and another ....Appellants

V/s

Datar Singh ....Respondent

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

Present: Mr. Ashdeep Singh, Advocate, for  
Mr. Jagjit Singh, Advocate, for the applicant-appellant.

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**VIKRAM AGGARWAL, J.**

**CM-4118-C-2023**

Prayer in the present application preferred under Section 5 of the Limitation Act, 1963 read with Section 151 CPC is for condonation of delay of 71 days in filing the appeal.

Heard.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed. The delay of 71 days in filing the appeal is condoned.

**RSA-1086-2023 (O&M)**

This is plaintiffs' appeal against the judgment and decree dated 07.10.2022 passed by the Court of Additional District Judge, Fatehgarh Sahib, dismissing the appeal filed by them against the judgment and decree dated 15.12.2016 passed by the Court of Civil Judge (Jr. Divn.), Fatehgarh Sahib, vide which the suit for permanent injunction filed by the plaintiffs was dismissed.

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

3. Plaintiffs (Gurdarshan Singh and Sukhdev Singh) instituted a suit for permanent injunction against the respondent-defendant (Datar



Singh), restraining him from taking forcible possession of any specific portion or from interfering into the joint possession of the plaintiffs over land measuring 52 kanals, 19 marlas (fully described in the plaint) situated in Village Jallah, Tehsil and District Fatehgarh Sahib (hereinafter referred to as the “suit land”).

3.1 The case set up was that the father of the plaintiffs namely Raunak Singh was joint owner in possession to the extent of 1/3<sup>rd</sup> share of the suit land. After his death, plaintiffs were in possession over the same qua the share of Raunak Singh.

3.2 An agreement to sell dated 15.12.2003 was fraudulently got executed by one Labh Singh from Raunak Singh as regards the suit land. To frustrate the said agreement to sell, Raunak Singh, executed a sale deed in favour of the defendant on 19.05.2004. No sale consideration was passed nor possession was delivered.

3.3 A suit for specific performance titled as Labh Singh vs. Raunak Singh and Datar Singh was filed, in which sale deed dated 19.05.2004 was held to be illegal vide judgment and decree dated 10.12.2010.

3.4 However, on the basis of the illegal sale deed, the defendants was intending and threatening to take forcible possession of 5 kanals land out of the suit land as a result of which, the suit was filed.

4. The suit was opposed by the defendant. In the written statement, certain preliminary objections as regards maintainability, estoppel, the plaintiffs not having approached the Court with clean hands and the suit being a misuse of the process of Court were raised.

5. On merits, it was denied that after the death of Raunak Singh, the plaintiffs were in possession over the suit land qua the share of Raunak



Singh. It was averred that Raunak Singh had executed a registered sale deed dated 19.05.2004 for a sale consideration of Rs.2.5 lakhs in favour of the defendant as regards agricultural land measuring 5 kanals out of total land 52 kanals and 19 marlas. It was averred that the sale deed was legal and valid and was a genuine document. On the basis of the sale deed, mutation had already been sanctioned and the defendant was in actual and physical possession of the land.

5.1 Other averments were denied.

6. Replication was filed, in which the contents of the written statement were denied and those made in the plaint were reiterated.

7. From the pleadings of the parties, following issues were framed by the trial Court:-

***“1. Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for?OPP***

***2. Whether the suit of the plaintiffs is not maintainable in the present form?OPD***

***3. Whether the plaintiffs have not come to the Court with clean hands?OPD***

***4. Whether the plaintiffs are stopped by their own act and conduct from filing the present suit?OPD***

***5. Relief.”***

8. Parties led their respective evidence. The trial Court dismissed the suit filed by the plaintiffs and the appeal filed by them against that decision was also dismissed by the first appellate Court, leading to filing of the present appeal.

9. I have heard learned counsel for the appellants.

10. Learned counsel for the appellants has strenuously urged that both Courts have erred in non-suiting the plaintiffs. It has been submitted that the sale deed dated 19.05.2004 had been executed to frustrate the



agreement dated 15.12.2003 and that in a suit for specific performance filed by Labh Singh against Raunak Singh, the sale deed had been quashed and the suit had been decreed on 10.12.2010. Learned counsel submits that under the circumstances, the suit should have been decreed.

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

12. Concededly, the agreement to sell dated 15.12.2003 was executed by Raunak Singh (father of the plaintiffs) in favour of one Labh Singh. The said Labh Singh instituted a civil suit for possession by way of specific performance against Raunak Singh and Datar Singh. The said suit was decreed vide judgment and decree dated 10.12.2010 (Ex.P3). In this judgment, even the sale deed dated 19.05.2004 executed by Raunak Singh in favour of Datar Singh was held to be illegal. Raunak Singh and Datar Singh were directed to execute the sale deed qua the suit land in favour of Labh Singh. Notably, Datar Singh did not contest that suit and was proceeded against *ex parte*.

12.1 From the aforesaid, it is quite apparent that the instant suit i.e. the suit for permanent injunction was instituted by the plaintiffs only with a view to defeat the rights of Labh Singh without impleading him as a party. Both Courts, therefore, rightly held that the suit was an abuse of the process of Court/law and had been instituted with a view to affect the rights of Labh Singh. It further came on record that pursuant to the judgment and decree dated 10.12.2010 (Ex.P3), a sale deed had been executed through the Court in favour of Labh Singh and only possession remained to be delivered in execution proceedings. It is under these circumstances that the suit for injunction was filed to thwart the handing over of possession to Labh Singh.

13. In the considered opinion of this Court, both judgments under challenge are well reasoned and were passed after careful appreciation of the controversy. No occasion arises to interfere with the concurrent findings of



facts recorded by Courts. Further, no question of law arises for the consideration of this Court warranting interference in second appeal.

14. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed.

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

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

**August 27, 2025**

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No