



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

130)

RSA No.1420 of 2025 (O&M)  
Date of decision: 05.08.2025

Jai Bhagwan

...Appellant

V/s

Ram Karan and others

...Respondents

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

Present: Mr. Jayant Puneet Bamal, Advocate, for  
Mr. Harmanjot Singh Gill, Advocate, for the appellant.

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**VIKRAM AGGARWAL, J. (ORAL)**

CM-4913-C-2025

Prayer in the present application preferred under Section 151 CPC read with Section 5 of the Limitation Act, 1963 is for condonation of delay of 8 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. The delay of 8 days in re-filing the appeal is condoned.

RSA-1420-2025

Plaintiff is in appeal against the judgment and decree dated 16.12.2024 passed by the Court of Additional District Judge, Jind, dismissing his appeal against the judgment and decree dated 20.05.2019, passed by the Court of Civil Judge (Sr. Divn.), Jind, vide which the suit of the plaintiff for permanent injunction was dismissed.

2. For the sake of convenience and clarity, parties shall be referred



to as per their original status.

3. Plaintiff (Jai Bhagwan) instituted a suit for permanent injunction restraining the defendants (Ram Karan and eleven others) from alienating any specific *Killa* number and from changing the nature of the land measuring 126 kanals 2 marlas situated within the revenue estate of Village Gatali, Tehsil Julana, District Jind (fully described in the plaint) (hereinafter to be referred to as the “suit land”) without partition of the same.

4. The case set up by the plaintiff was that plaintiff was co-owner with possession as per his share of the suit land in terms of *Jamabandi* for the year 2014-15. Some portion of the land was stated to be abutting with National Highway No.71. Plaintiff was also a co-sharer in that land. No partition had taken place amongst the co-sharers. The defendants intended to sell/change the nature of the land abutting the National Highway No.71. The defendants were requested by the plaintiff not to alienate the specific portion of the suit land without partition but they refused to agree as a result of which, the plaintiff filed the suit.

5. The suit was resisted by the defendant. In the written statement, preliminary objections as regards maintainability, *locus standi*, cause of action, mis-joinder and non-joinder of necessary parties etc. were raised. On merits, it was submitted by the defendants that Har Narain son of Kanhaiya was the owner in possession of the suit land. Plaintiff and defendants No.1 to 5 were the sons and daughters of Har Narain. Defendants No.7 to 12 were grandsons and granddaughters of Har Narain (sons and daughters of Savitri, sister of the plaintiff). It was averred that the plaintiff, being a habitual drunkard, it was apprehended that he could transfer the land to other persons by way of sale, so Har Narain transferred 96 kanals and 12 marlas of land in



favour of Ram Kumar (who died issueless), Ram Karan and Sheel Kumar vide release deed dated 10.10.2000. It was averred that remaining land out of the suit land was inherited by plaintiff and defendants as per their shares. After the death of Ram Kumar, his land was also inherited by plaintiff and defendants. It was averred that plaintiff was cultivating 30 kanals of land. It was averred that plaintiff had no right over the cultivating possession of the land which had fallen to the share of defendants. It was averred that plaintiff was neither owner nor in possession of the land abutting with National Highway and in fact defendants were the owners in possession of the same.

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

***“1. Whether the plaintiff is entitled for permanent injunction against the defendants on the ground as taken in the plaint?OPP***

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

***3. Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD***

***4. Whether the suit of the plaintiff is bad for mis-joinder and non-joinder of necessary parties?OPD***

***5. Relief.”***

7. Parties led their respective evidence. The trial Court dismissed the suit and the appeal preferred by the plaintiff against the said judgment was also dismissed by the first Appellate Court.

8. I have heard learned counsel for the appellant.

9. Learned counsel for the appellant submits that both Courts erred in dismissing the suit filed by the plaintiff. Learned counsel has strenuously



urged that the judgments passed by the first appellate Court and the trial Court are not sustainable, for, the matter was not examined from the correct perspective. Learned counsel submits that the Courts lost sight of the fact that the partition of the suit land had never been conducted. Learned counsel referred to the pleadings and the entire oral and documentary evidence led on the record of the case. He submits that under the circumstances, the present appeal deserves to be allowed.

10. I have considered the submissions made by learned counsel for the appellant.

11. Concededly, parties to the *lis* are co-sharers. It was rightly held by both Courts that no injunction could be granted in such a case especially when the plaintiff could not establish his exclusive possession over a specific portion of the suit property nor the exclusive possession of the defendants over same specific portion. In fact, the plaintiff admitted the possession of the defendants over land measuring 94 kanals 12 marlas. It was rightly found that the remedy was to institute a suit for partition. No challenge was also laid to the release deed. He also could not prove as to which portion of the land had been covered under the National Highway. The plaintiff was required to prove his case by leading cogent evidence which he failed to do and was, therefore rightly non-suited by both Courts.

12. Though, no other argument has been raised, I have gone through the judgments of both the Courts and find no illegality in the same warranting interference in second appeal.

13. In view of the aforementioned facts and circumstances, 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 05, 2025**

vcgarg

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No