



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-3013-2025 (O&M)

Date of Decision.:19.05.2025

Shiv Kumar and Others

.....Petitioners

Vs.

Krishna Nand and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Gurdeepinder Singh Dhillon, Advocate
for the petitioners.

DEEPAK GUPTA, J. (ORAL)

CM-10084-CII-2025:

This is an application under Section 5 of the Limitation Act read with Section 151 CPC to condone the delay of 45 days in filing the appeal.

For the reasons mentioned in the application duly supported by affidavit of Shiv Kumar, one of the applicant, delay of 45 days in filing the appeal is hereby condoned.

Application stands disposed of accordingly.

Main case.:

Petitioners herein are defendant Nos.1 to 3 before learned Additional Civil Judge (Senior Division), Jind in a civil suit titled '*Krishna Nand @ Krishan Sharma versus Sanatan Dharm Pathshala and others*' (CNR No.HRJN02-001471-2023). They are aggrieved by the order dated 13.12.2024 (*Annexure P-4*), whereby their application moved under Order VII Rule 11 CPC to reject the plaint, has been dismissed by the trial Court.

2. As the perusal of the plaint (*Annexure P-1*) would reveal that plaintiff sought a decree of declaration to be owner in possession of the suit



property by way of adverse possession. He further assailed a transfer deed No.513 dated 12.05.2023 executed *inter se* the defendants. He also prayed for a decree of permanent injunction to restrain the defendants from dispossessing him from the suit land or raise any construction thereon and further prayed that in case during pendency of the suit, he is dispossessed, then decree of mandatory injunction be passed by directing the defendants to restore his possession.

3. Rejection of the plaint was sought on the ground that plaintiff had assessed the value of the suit for the purpose of Court fee and jurisdiction only at ₹1,000/- and had affixed the Court fee of ₹50/- despite the fact he had challenged transfer deed dated 12.05.2023 with value of the land worth ₹2.83 crore. It was contended that plaintiff was required to affix the Court fee on the value of the land and the value of the impugned transfer deed. Still further, it was contended that said transfer deed was got executed by the answering defendants with permission of the Court in Civil Suit No.5 of 2022 decided on 21.09.2022 but plaintiff had not challenge the same intentionally and thus, was guilty of suppression of the material facts. It was also the contention that land in dispute belongs to a charitable trust and so, suit could be filed only with prior permission of the Court under Section 92 CPC.

4. All the aforesaid contentions were rejected by the trial Court and the application under Order VII Rule 11 CPC was dismissed.

5. Raising the similar contentions, the petitioners assail the impugned order by way of present revision petition filed under Article 227 of the Constitution of India.

6. This Court does not find merit in any of the contentions. As has been rightly observed by the trial Court that plaintiff is not a party to the impugned transfer deed; nor he is seeking possession of the property in

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dispute and as such, he was not required to pay the ad valorem Court fee on the value of the land as mentioned in the impugned deed. It has also been rightly observed that Section 92 CPC deals with the provisions of public charities as per which, in case of alleged breach of any express or constructive trust created for the public purpose of a charitable or religious nature or where the direction of the Court is deemed necessary for the administration of any trust, then Advocate General or two or more persons having an interest in the trust, may institute the suit with leave of the Court. Learned trial court has rightly observed that in the present case, plaintiff has filed the suit in his individual capacity and not on behalf of the charitable trust and as such, no permission under Section 92 CPC was required to be taken by him.

7. As far as the contention of learned counsel that plaintiff has concealed the factum of the decree dated 21.09.2022 in civil suit No.5 dated 11.01.2022 is concerned, this is a matter to be considered by the Court concerned after taking evidence produced by the parties. It is not the case of the petitioners that plaintiff was party to that litigation.

8. On account of the aforesaid discussion, this Court does not find any illegality or perversity in the impugned order. As such, holding the present petition to be devoid of any merit, same is hereby dismissed.

**(DEEPAK GUPTA)
JUDGE**

May 19, 2025

Neetika Tuteja

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable | Yes/No |