

RSA-3241-2011 (O&M)

2025-PHHC-122942



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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RSA-3241-2011 (O&M)

Date of decision : 08.09.2025

Smt. Asharfi (deceased) Thr. Her LRs.

..... Appellant

Versus

Maru Singh (deceased) Thr. His LRs. & anr.

.... Respondents

**CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN**

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Present :- Ms. Sonia G.Singh, Advocate for the appellant.

None for the respondents.

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**PANKAJ JAIN, J. (ORAL)**

**CM-8961-C-2011**

This is an application seeking condonation of delay of 349 days in filing the present appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant-appellant has shown sufficient cause to condone the delay in filing the appeal.

Application is allowed. Delay of 349 days in filing the appeal is condoned.

**CM-8962-C-2011**

This is an application seeking condonation of delay of 85 days in re-filing the present appeal.



For the reasons recorded in the application, this Court is satisfied that the applicant-appellant has shown sufficient cause to condone the delay in filing the appeal.

Application is allowed. Delay of 85 days in re-filing the appeal is condoned.

**RSA-3241-2011**

1 LRs of appellant-defendant are in second appeal. For convenience parties hereinafter are referred to by their original position in the suit, i.e. the appellant as defendant and respondents as plaintiffs.

2 Plaintiffs filed suit for declaration against their sister namely Ashrafi. The suit was filed seeking decree of declaration challenging the mutation of inheritance *qua* the estate left by their father namely Rattan Lal who died in the year 1954. Plaintiffs claimed that since Lakhan died prior to the date The Hindu Succession Act, 1956 (for short 'the 1956 Act') came into effect, Ashrafi being daughter of Rattan Lal had no right of inheritance.

3 The suit was decreed by the Trial Court.

4 Defendant-sister preferred appeal on 25.04.2009/27.04.2009 against judgment and decree dated 09.11.1998 after inordinate delay of more than 10 years. She sought condonation of delay claiming that in fact, she was never served *qua* the suit and thus had no occasion to appear. Any representation on her behalf was wrongly recorded by the Trial Court. Appellate Court, while disbelieving the story put forth by defendant, noticed that defendant appeared before the Trial Court after engaging counsel on 11.04.1997. Vakalatnama is on record, which carries her thumb impressions. Even in the zimni order dated 09.05.1997, thumb impressions



of the defendant can be seen. Accordingly, Lower Appellate Court held the issue of delay against the appellant on merits of the case Lower Appellate Court observed as under :

*“13. One of the plaintiffs namely Maru Singh as PW-1 and has stated that their father namely Rattan Lal died in the year 1954. Lakhan son of Shri Bihari was died in the year 1962. It is admitted fact that defendant is real sister of plaintiffs. Learned Trial Court has rightly held that Rattan Lal died before coming into force Hindu Succession 1956 Act so defendant who is the daughter of Rattan Lal had no right to inherit the property of her father. So mutation no. 355 Ex.P4 is illegal because due to that mutation defendant also received 1/3rd share in the land of Rattan Lal. So learned Trial Court has rightly declared mutation no. 355 as null and void and is not binding upon the rights of the plaintiffs. So far as Lakhan who died in the year 1962 and at that time Hindu Succession Act, 1956 had already came into force, so property left by Lakhan was inherited as per provision of Hindu Succession Act, as plaintiffs are brother’s sons of Lakhan (deceased) and defendant is brother’s daughter of Lakhan Lal (deceased). Therefore, learned Trial Court has rightly held that defendant had right to inherit the property of Lakhan Lal (deceased) along with plaintiffs in equal shares. So the mutation no. 1014 dated 28.2.1994 which came into effect after the death of Lakhan Lal is legal and valid. So finding of learned Trial issue no.1 is affirmed.”*

5 Counsel for the defendant has assailed the findings recorded by the Lower Appellate Court. She refers to the zimni orders passed by the Trial Court to buttress her submission that in fact the defendant was never served before the Trial Court as process fee was not filed by the plaintiff. Reference is being made to the order dated 06.12.1996. Without going into the niceties regarding the service on the defendant, when questioned about



the merits of the case, counsel for the defendant is not in a position to dispute that Rattan Lal in fact died in the year 1954, that is prior to the date 1956 Act came in force. That being the conceded position, this Court finds that no exception can be taken to findings recorded by the Courts below on merits.

6 Finding no merits in the present appeal, the same is ordered to be dismissed.

7 Pending miscellaneous application, if any, also stands disposed off.

**08.09.2025**  
*Pooja Sharma-I*

**( PANKAJ JAIN )**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No