



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

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**CM-400-C-2023 in/and
RSA-117-2023 (O&M)
Date of Decision.: 20.04.2026**

Rameshwar Dass**.....Appellant****Vs.****Sheo Ram and Others****.....Respondents****CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. Ranjit Saini, Advocate
for the appellants.

DEEPAK GUPTA, J. (ORAL)**CM-403-C-2023:**

This is an application under Section 5 of the Limitation Act read with Section 151 CPC to condone the delay of 4 days in filing the appeal.

For the reasons mentioned in the application duly supported by affidavit of the appellant, delay of 4 days in filing the appeal is hereby condoned.

Application stands disposed of accordingly.

CM-400-C-2023:

This is an application under Section 151 CPC to condone the delay of 52 days in re-filing the appeal.

For the reasons mentioned in the application duly supported by affidavit of the appellant, delay of 52 days in re-filing the appeal is hereby condoned.

Application stands disposed of accordingly.

Main case.:

The plaintiff-appellant has preferred the present Regular Second Appeal against the concurrent findings recorded by the learned



Courts below, whereby his suit seeking a decree of mandatory injunction for recovery of damages allegedly caused to his machinery and articles has been dismissed. The learned trial Court vide judgment & decree dated 24.04.2019 dismissed the suit, and the said findings have been affirmed by the learned First Appellate Court vide judgment dated 25.05.2022.

2. The case set up by the plaintiff was that he had been a tenant in the shop in question since the year 1982 and was carrying on the business of a motor mechanic therein. It was alleged that the defendants, with a view to dispossess him and cause financial loss, damaged the roof of the shop, dug a pit nearby resulting in accumulation of rainwater, and further removed articles and machinery worth approximately ₹4,00,000/-. On these assertions, the plaintiff sought compensation by way of damages.

3. The defendants contested the suit by denying all allegations and asserting, *inter alia*, that the property in question had already been acquired by the Government and that the plaintiff had concocted a false story. It was also pleaded that no incident of theft or damage, as alleged, had ever taken place and that even inquiries conducted on complaints made by the plaintiff did not substantiate his allegations.

4. On the basis of the pleadings and evidence led by the parties, the learned trial Court returned a categorical finding that the plaintiff had failed to prove any wrongful act on the part of the defendants, which could have resulted in the alleged damage. It was noticed that no independent or reliable evidence had been produced to establish that the defendants had removed any articles or caused damage to the structure. Even the plaintiff, in his cross-examination, admitted that he had not witnessed the alleged acts and could not name any person responsible for the same. The learned trial Court further observed that no expert evidence had been led to show that the damage to the roof was the result of any deliberate act rather than natural wear and tear. Consequently, the suit was dismissed.

5. The learned First Appellate Court, upon reappraisal of the



entire evidence, concurred with the findings of the learned trial Court and held that the plaintiff's case rested on mere assertions without any substantive proof. It was further held that the essential requirement of establishing a direct and proximate nexus between the alleged acts of the defendants and the damage claimed had not been satisfied. Accordingly, the appeal was dismissed.

6. Assailing the concurrent findings, learned counsel for the appellant has contended that the Courts below have failed to properly appreciate the evidence led by the plaintiff and have erroneously discarded the testimony of his witnesses. However, upon consideration of the matter, this Court finds no merit in the said contention.

7. It is well settled that the jurisdiction of this Court in a second appeal under Section 100 of the Code of Civil Procedure is confined to substantial questions of law. The concurrent findings of fact recorded by the Courts below cannot be interfered with unless the same are shown to be perverse, based on misreading of evidence, or suffering from a patent illegality. In the present case, the findings returned by both the Courts below are based on a proper and cogent appreciation of the evidence on record.

8. The plaintiff has failed to produce any credible evidence to substantiate the allegation that the defendants had either removed his machinery or caused damage to the shop. The absence of eyewitness testimony, coupled with the lack of expert evidence regarding the alleged damage to the structure, clearly weakens the case of the plaintiff. Furthermore, no material has been placed on record to establish a causal connection between the alleged acts of the defendants and the loss claimed by the plaintiff. The findings recorded by the Courts below, therefore, cannot be said to be either perverse or contrary to law.

9. The arguments raised on behalf of the appellant essentially seek a re-appreciation of evidence, which is impermissible in second



appeal. No substantial question of law arises for consideration in the present case.

10. In view of the aforesaid discussion, this Court is of the considered opinion that the judgments and decrees passed by the Courts below do not suffer from any illegality or infirmity warranting interference.

11. Consequently, the present Regular Second Appeal is dismissed, being devoid of merit. There shall be no order as to costs. Pending applications, if any, also stand disposed of.

**(DEEPAK GUPTA)
JUDGE**

April 20, 2026

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No