



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

**RSA-4395-2025 (O&M)
Date of Decision: 14.07.2026**

Rajbir

..... Appellant

Versus

Amir Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ajit Sihag, Advocate
for the appellant.

HARSH BUNGER J. (ORAL):

CM-16072-C-2025:

Present application is filed seeking condonation of delay of 235 days in refiling the Regular Second Appeal i.e., RSA-4395-2025.

For the reasons mentioned in the application, delay of 235 days in refiling the Regular Second Appeal i.e., RSA-4395-2025 is condoned.

Application is, accordingly, disposed of.

RSA-4395-2025:

The present Regular Second Appeal has been filed by the appellant-Rajbir, challenging the judgment and decree dated 15.11.2023 passed by the learned Additional Civil Judge (Senior Division), Charkhi Dadri and also the judgment and decree dated 25.02.2025 passed by the

learned District Judge, Charkhi Dadri.

2. Briefly, respondent/plaintiff (Amir Singh) filed a suit for recovery of Rs.68,000/- against the present appellant (Rajbir). On the other hand, appellant (Rajbir) also filed a counter claim.

2.1 Both the aforesaid suit for recovery filed by the respondent/plaintiff (Amir Singh) as well as the counter claim filed by the appellant (Rajbir) came to be decided vide common judgment and decree dated 15.11.2023, whereby suit for recovery filed by the respondent/plaintiff (Amir Singh) has been decreed, whereas, counter claim filed by the appellant (Rajbir) has been dismissed.

2.2 Thereafter, the present appellant preferred an appeal before the learned District Judge, Charkhi Dadri, which has been dismissed, vide judgment and decree dated 25.02.2025.

3. In the aforementioned circumstances, the present Regular Second Appeal has been filed by the appellant (Rajbir).

4. I have heard learned counsel for the appellant and perused the paper book with his able assistance.

5. The issue that arises for consideration before this Court is whether a single appeal is maintainable against a common judgment, whereby, both the suit for recovery and the counter claim have been decided.

6. In fact, the aforesaid issue is no more *res-integra*.

7. The Hon'ble Apex Court in case of ***Premier Tyres Limited v. Kerala State Road Transport Corporation, 1993(Sup2) SCC 146*** held as under :-

"4. Although none of these decisions were concerned with a situation where no appeal was filed against the decision in connected suit but it appears that where an appeal arising out

of connected suits is dismissed on merits the other cannot be heard, and has to be dismissed. The question is what happens where no appeal is filed, as in this case from the decree in connected suit. Effect of non filing of appeal against a judgment or decree is that it become final. This finality can be taken away only in accordance with law. Same consequences follows when a judgment or decree in a connected suit is not appealed from.

*5. Mention may be made of a Constitution bench decision in **Badri Narayan Singh v. Kamdeo Prasad Singh, AIR 1962 Supreme Court, 338**. In an election petition filed by the respondent a declaration was sought to declare the election of appellant as invalid and to declare the respondent as the elected candidate. The tribunal granted first relief only. Both appellant and respondent filed appeals in the High Court. The appellant's appeal was dismissed but that of respondent was allowed. The appellant challenged the order passed in favour of respondent in his appeal. It was dismissed and preliminary objection of the respondent was upheld. The Court observed, 'We are therefore of opinion that so long as the order in the appellant's appeal No. 7 confirming the order setting aside his election on the ground that he was a holder of an office of profit under the Bihar Government and therefore could not have been a properly nominated candidate stands, he cannot question the finding about his holding an office of profit, in the present appeal, which is founded on the contention that that finding is incorrect.*

6. Thus the finality of finding recorded in the connected suit, due to non filing appeal, precluded the Court from proceeding with appeal in other suit. In any view of the matter the order of the High Court is not liable to interference."

8. This Court in case of **Sukhdev Singh v. Baldev Singh and others, 2014(4) PLR 651** relying upon the decision of the Hon'ble Apex Court in **Harbans Singh and others v. Sant Hari Singh and others, AIR**

2009 Supreme Court 1819 has held as under :-

"13. Moreover, the plaintiff has not preferred separate appeal challenging the acceptance of counter-claim of defendant No.1 meaning thereby that he has accepted the impugned judgment. Since counter claim is just like an independent suit, two appeals ought to have been filed. In absence of same, principle of res judicata will apply. Reference can be made to the decision rendered in Harbans Singh and others's case (supra) by the Hon'ble Supreme Court."

9. The above said decisions squarely cover the issue involved in the present appeal. In such circumstances, no fault can be found in the judgment and decree passed by the learned District Judge, Charkhi Dadri.

10. In view of the above, I see no merit in the present appeal and the same is, accordingly, dismissed.

11. All pending application(s), if any, shall also stand closed.

14.07.2026
Pd

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No