

RSA No.3328 of 2013 (O&M)

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

RSA No.3328 of 2013 (O&M)

Date of Decision: September 18, 2015

Kuldip Singh & others

...Appellants

Versus

Avtar Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Aminder Singh, Advocate
for the appellants.

AUGUSTINE GEORGE MASI, J. (Oral):

CM No.8919-C of 2013

Prayer in this application is for condoning the delay of 110 days in re-filing the appeal.

The reason assigned for the delay in re-filing the appeal is that after the Registry raised certain objections, the case file was received back which got mixed with the brief of some other decided case and the same was, with great difficulty, traced out and re-filed which resulted in the delay of 110 days. The application is supported by an affidavit of the counsel.

In view of the reason assigned in the application, the same is allowed. Delay of 110 days in re-filing the appeal stands condoned.

RSA No.3328 of 2013

Challenge in this appeal is to the judgment and decree

passed by the Additional District Judge, Kapurthala, dated 31.10.2012 vide which the appeal preferred by the respondent-plaintiff against the judgment and decree dated 15.12.2010 passed by the Civil Judge (Senior Division), Kapurthala, dismissing his suit for specific performance, has been allowed.

It is the contention of the learned counsel for the appellant that the agreement to sell was entered into between the parties on 22.01.1982. The said agreement to sell although did not specify any time within which the sale-deed was to be executed but the same should have been done within a reasonable period of time. The respondent-plaintiff had slept over his rights for more than 20 years and then, the suit was filed on 30.11.2002. He, thus, contends that the suit for specific performance at this belated stage, could not be filed. His further contention is that an unregistered sale-deed cannot be taken into consideration as evidence at this belated stage and it required mandatory registration. He, thus, contends that the judgment and decree by the learned Lower Appellate Court deserves to be set aside.

I have considered the submissions made by the counsel for the appellant and with his assistance, have gone through the judgments passed by the Courts below.

As regards the first contention of the learned counsel for the appellant that there is an inordinate delay in approaching the Court

for the decree of specific performance and therefore, the suit could not have been entertained by the Courts below but this contention cannot be accepted as there is no specified period which would bar such a suit especially when there is no time fixed under the agreement to sell as to when the execution of the sale-deed was not mentioned. Further, it has been proved on record that the total sale consideration was paid on the date of agreement to sell and the possession of the property was also delivered to the respondent-plaintiff. In the above facts and circumstances, the submission of learned counsel for the appellant cannot be accepted.

As regards the contention of the counsel for the appellant that the agreement to sell being an unregistered document could not have been admissible in evidence, also cannot be accepted in the light of the judgments passed by this Court in Didar Singh Vs. Nasib Kaur & others, 2012 (2) CCC 428 and Mool Chand Mundhra Vs. Smt. Indu Bala, 2011 (3) CCC 660, where it has been held that suit for specific performance on the basis of unregistered agreement to sell, under which possession stands delivered, is maintainable.

In view of the above, finding no merit in the present appeal and there being no substantial question of law which arises for consideration of this Court, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

September 18, 2015
Harish