

RSA No. 4029 of 2015 (O&M)

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

RSA No. 4029 of 2015 (O&M)

Date of Decision: September 22, 2015

Jit Singh

...Appellant

Versus

Shingara Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Simranjit Singh Sarwara, Advocate
for the appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

CM No.9829-C of 2015

Prayer in this application is for condonation of delay of
101 days in re-filing the appeal.

For the reasons mentioned in the application which is duly
supported by the affidavit of the counsel, the same is allowed. Delay
of 101 days in re-filing the appeal stands condoned.

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Challenge in this appeal is to the judgment and decree
passed by the Civil Judge (Senior Division), Fatehgarh Sahib, dated
05.02.2014 which judgment and decree has been upheld by the
District Judge, Fatehgarh Sahib, on 03.09.2014, whereby the suit for
recovery of ₹70,000/- which was paid as earnest money by the

respondent-plaintiff to the appellant-defendant vide agreement to sell dated 17.08.2011 has been decreed with 9% interest from the date of agreement to sell till the passing of the decree and future interest at the rate of 6% per annum from the date of decree till the realization.

It is the contention of the counsel for the appellant that the findings recorded by the Courts below cannot be sustained as the evidence which has been led by the parties has not been properly appreciated specially the testimony of Navdeep Gupta, Hand-Writing Expert (DW-3). He contends that the agreement to sell has been disputed by the appellant-defendant in his written statement and in fact, it was pleaded by the appellant-defendant that he had borrowed an amount of ₹10,000/- for which various blank papers were got signed from him, which has ultimately been converted into an agreement to sell, which is forged and fabricated document and therefore, not binding upon him. He, thus, contends that the judgments and decree passed by the Courts below deserve to be set aside.

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

The contention as raised by the counsel for the appellant cannot be accepted as Jit Singh (appellant-defendant) had appeared in the witness-box as DW-1 and in his cross-examination, admitted

the factum that the agreement to sell scribed by his son Pargat Singh who although appeared in the witness-box as DW-2 but did not come present for his cross-examination and therefore, his evidence could not be taken into consideration and has rightly been done so. Jit Singh (DW-1) has further admitted that the sale-deed was to be executed on 23.08.2011 as per the agreement to sell which was scribed by his son. Admission has also been made that he did not execute the sale-deed in favour of the respondent-plaintiff as the price of the land had increased in those days. It may be added here that he had sold the land to one Ram Singh vide sale deed dated 26.08.2011.

In the light of these admissions on the part of the appellant-defendant, the Courts have proceeded to disallow his stand which he had projected in his written statement. The Courts have rightly discarded the evidence of Navdeep Gupta, Hand-Writing Expert (DW-3) in the light of the admissions. That apart, the appellant-defendant has not been able to lead any cogent evidence which would indicate that agreement to sell had not been entered into between the parties and that the appellant-defendant had borrowed an amount of ₹10,000/- and signed the blank papers as asserted by him.

Both the Courts below have returned concurrent findings which are based on proper appreciation of the evidence brought on

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record which do not call for any interference by this Court as there is no misreading or non-consideration of evidence nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

CM No.9830-C of 2015

In view of the order passed in the main appeal, the present application also stands dismissed.

September 22, 2015
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE