

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

RSA No.2636 of 2014
Date of decision : 27.01.2015

Din Dayal

...Appellant

Versus

Usman and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vivek Goyal, Advocate
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.6212-C of 2014

For the reasons stated in the application which is supported
by an affidavit, delay of 513 days in filing the appeal is condoned.

The application stands disposed of.

CM No.6213-C of 2014

The application is allowed as deficiency in Court fees has
been made good subject to all exceptions.

Applications stands disposed of.

CM No.6214-C of 2014

For the reasons stated in the application which is supported
by an affidavit, delay of 1186 days in re-filing the appeal is condoned.

The application stands disposed of.

Main Case

The appellant-plaintiff is in Regular Second Appeal against the judgments and decrees of the Courts below, whereby the suit for possession by way of specific performance of agreement to sell dated 29.08.1996 alleged to have been executed between the plaintiff and defendant has been dismissed.

Since the parties were at variance, the learned trial Court framed as many as 8 issues including the issue of relief and issue No.6 was framed with regard to concealment of the facts and onus of the same was upon the defendants. The trial court proceeded to decide issue No.6 in the first instance and found from the examination of the oral and documentary evidence that plaintiff had taken the contradictory stand as per the convenience and concealed Ex.D1 to D6 i.e. another agreements to sell alleged to have been entered into between the plaintiff and one Rajak. Six similar agreements had been executed between one Rajak, the plaintiff & his son Sunil Kumar. As far as other issues are concerned, the trial Court found that since the appellant-plaintiff was held to have concealed material facts and had made a perjurious statement, therefore, returned the finding on the said issue against the respondents-defendants. Appeal filed against the judgment and decree of the trial Court met with the same fate.

In the present appeal, learned counsel for the appellant-plaintiff argued that both the Courts below have committed illegality and perversity in dismissing the suit as umpteen number of oral and

documentary evidence was led that is qua the execution of the agreement much less readiness and willingness on the part of the appellant-plaintiff.

I am afraid the aforementioned arguments of learned counsel for the appellant-plaintiff sans merit.

Appellant-plaintiff was found to have concealed material facts. The agreements to sell Ex.D1 to Ex.D6 alleged to have been entered into between him and Rajak were concealed for the reasons best known and the Courts below after examining the oral and documentary evidence found that the appellant-plaintiff was not entitled to discretionary relief as enshrined under Section 20 of the Specific Relief Act. The agreement Ex.P1 has been held to be null and void. The appellant-plaintiff also did not prove the basic ingredients of Section 16(c) of the Specific Relief Act and in the absence of the same particularly in view of the findings rendered on issue No.6. The suit of the appellant-plaintiff has rightly been dismissed.

There is no illegality and perversity in the findings rendered by the Courts below.

No substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

27.01.2015

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**(AMIT RAWAL)
JUDGE**