

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

105

Regular Second Appeal No.6233 of 2014 (O&M)  
Date of Decision: October 13, 2015

Satish and another

...Appellants

Versus

Rati Pal @ Khajan and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI**

Present: Mr. Manish Dadwal, Advocate  
for the applicants-appellants.

**AUGUSTINE GEORGE MASI, J. (ORAL)**

**CM No.14846-C of 2014**

Prayer in this application is for condonation of delay of 34 days  
in re-filing the appeal.

For the reasons mentioned in the application, which is duly  
supported by the affidavit of the Clerk of the counsel, the same is allowed.

Delay of 34 days in re-filing the appeal stands condoned.

**CM No.14847-C of 2014**

Prayer in this application is for making good the deficiency in  
the Court fee.

The explanation which has been given in the application  
indicates that it was due to inadvertence that the Clerk of the counsel did  
not affix the correct Court fee, which was found to be deficient initially  
when filed which has been made good now. The application is supported by  
the affidavit of the Clerk of the counsel.

For the reasons mentioned in the application which is duly  
supported by an affidavit, the same is allowed.

The deficient Court fee is permitted to be made good and the

same is taken on record.

**RSA No.6233 of 2014**

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Senior Division), Nuh, dated 18.01.2014, by which the suit for specific performance and permanent injunction filed by the appellants-plaintiffs against the respondents-defendants stands dismissed, appeal preferred by the appellants-plaintiffs against the said judgment and decree, also stands dismissed by the learned District Judge, Mewat, on 21.05.2014.

2. It is the contention of learned counsel for the appellants-plaintiffs that an agreement to sell was entered into between the appellants-plaintiffs and defendant No.1 on 05.11.1992. The total consideration was fixed as ₹1,50,000/- for the agricultural land in question, out of which an amount of ₹95,000/- was paid as earnest money and there was an amount of ₹50,000/- due towards respondent-defendant No.1, which was a redemption of a mortgage. The remaining amount to be paid by the appellants-plaintiffs was only ₹5,000/-. The date for execution of the sale deed was fixed as 06.04.1993. On the said date, the respondent-defendant No.1 did not appear before the Sub Registrar, whereas the power of attorney holder Charan Singh appeared on behalf of appellants-plaintiffs before the Sub Registrar and got marked his presence. He, on this basis, contends that the findings recorded by the Courts below that the appellants-plaintiffs were not ready and willing to perform their part of the contract, cannot be sustained. His further contention is that as the agreement to sell has not been disputed and rather the same has been found to be actually having been given effect to between the appellants-plaintiffs and respondent-defendant No.1, the *bona*

*fide* purchaser i.e. respondent-defendant No.3 and the findings in this regard cannot be also accepted and deserve to be set aside.

3. I have considered the submissions made by learned counsel for the appellants-plaintiffs and with his assistance have gone through the impugned judgments passed by the Courts below but am not able to accept the submissions/contentions raised by the counsel as it is not in dispute that both the appellants-plaintiffs did not personally come present in the office of the Sub Registrar, Nuh, on 06.04.1993, the date fixed for execution of the sale deed. One Charan Singh had appeared before the Sub Registrar, who has been given the alleged power of attorney by both the appellants-plaintiffs. Unfortunately, neither the original power of attorney has been produced in evidence by the appellants-plaintiffs nor has Charan Singh, the alleged power of attorney, appeared before the Court to prove the fact that there was indeed a power of attorney in his favour and that he had appeared on behalf of the appellants-plaintiffs before the Sub Registrar.

4. The Courts below on proper appreciation of the evidence and the pleadings as also the submissions of the parties, rightly come to the conclusion that the appellants-plaintiffs were not ready and willing to perform their part of the contract as their presence before the Sub Registrar on 06.04.1993 has not been duly established.

5. In view of the above, the second contention of learned counsel for the appellants-plaintiffs with regard to respondent-defendant No.3 being a *bona fide* purchaser and the findings recorded in that regard is not required to be gone into as the said aspect would not be alive anymore.

6. Both the Courts below have returned concurrent findings in detail after properly appreciating the evidence and the same cannot be

interfered with as there is no perversity or illegality in the same.

7. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

8. In the light of the dismissal of the appeal itself, the application for stay i.e. CM No.14848-C of 2014 stands disposed of as infructuous.

**October 13, 2015**  
*Puneet*

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**