

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

**RSA No.1630 of 2016 (O&M)
Date of Decision.19.10.2016**

Anil Kumar Jaiswal

.....Appellant

Vs

Dr. Veena Tandon and another

.....Respondents

Present: Mr. N.D. Achint, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The present second appeal is accompanied by an application seeking condonation of delay of two years and odd days on the premise that against the judgment and decree of the lower Appellate Court dated 18.08.2012, review application was filed but the same was dismissed on 11.09.2014 whereas the appeal has been filed in December, 2015.

Mr. N.D. Achint, learned counsel appearing for the appellant submits that the appellant-plaintiff filed a suit for recovery of ₹14,64,921/- on the ground that the parties had entered into agreement for construction of plot No.3605, DLF City, Phase-IV, Gurgaon on 26.03.2000. The plaintiff started raising construction and issued bills mentioned in the plaint. The plaintiff had carried out the work according to the sketch prepared by defendants' architect Mr. C. Shah and modified by defendants and structural designs, drawing and details prepared by their consultant M/s Ranjan Structomech Pvt. Ltd. which was under the active supervision of both the defendants and their family members. Defendant No.1 gave false representation to DLF authorities that some persons entered into their plot illegally. The plaintiff had completed the construction work honestly and as per full satisfaction of the defendants. Even the notices were sent but the defendants did not reply and the plaintiff stopped

the defendants.

He further submits that there is gross misreading of the oral as well as documentary evidence, much less, Ex.DW1/1, letter written by defendant No.1 to the plaintiff. It is in this backdrop of the matter, the aforementioned suit was filed, thus, urges this Court for setting aside the judgments and decrees under challenge by formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard learned counsel for the appellant and appraised the paper book. Only the photocopies of bills Ex.P2 to P9 had been produced on record. In my view, the Courts below have declined to interfere as the aforementioned documents did not carry presumption of truth, much less, have not been proved in accordance with law. It is conceded position on record that a sum of ₹10 lacs had been paid to the plaintiff, however, the bills under which the plaintiff is now raising demand of ₹14,64,921/-, have not been proved in accordance with law. Except the self-serving statement no other direct, cogent, much less, corroborative evidence has been placed on record.

An application for placing on record the additional evidence has been moved before this Court but no explanation has come forth as to why these documents were not placed before the Courts below. There is no merit in the appeal, much less, in the application seeking condonation of delay. No ground for interference is made out. The second appeal is dismissed on limitation as well on merits.

(AMIT RAWAL)
JUDGE

October 19, 2016
Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No