

In the High Court of Punjab and Haryana at Chandigarh

PARAMJIT KAUR SAINI
016.02.16 10:47
Attest to the accuracy and
authenticity of this document

**C.M.No. 9043-C of 2014 in/and
RSA No. 3917 of 2014(O&M)
Date of Decision:5.2.2016**

Bikar Singh

---Appellant

vs.

Krishan Kant Kaushal

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Sanjiv Gupta, Advocate
for the appellant

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal,J.

The applicant-appellant has filed the present regular second appeal to assail concurrent findings of fact recorded by the courts below whereby the suit filed by the respondent for possession by way of specific performance of the agreement to sell dated 26.4.2000 in respect of a house constructed over land measuring 5 marlas i.e. 152.8 square yards comprised in khewat No. 103 khatauni No. 142 khasra No. 69//20/2/3/2(0-5M) situated at Thuhi Road, Nabha has been decreed by the trial court and the judgment and decree passed by the trial court has been affirmed in appeal.

The appellant has filed an application under Section 148 of the Code of Civil Procedure (in short “CPC”) seeking enlargement of time for filing court fee. The application and the appeal were filed in May 2014. The Registry raised objection with regard to non-payment of court fee but later the appeal was fixed for hearing. The matter was taken up for the first time on October 28, 2014. Counsel for the appellant repeatedly made request for adjournment of the case and it was adjourned on more than 5-6 occasions but the appellant failed to pay the court fee. Counsel for the applicant has made a request for further adjournment though he has fairly conceded that his client is not in touch with him. The appellant has not come forward till date to pay the requisite court fee.

Section 148 CPC empowers the court to enlarge the time for doing any act prescribed or allowed by the Code. However, the court is not empowered to enlarge such period for any term exceeding 30 days in total. In the case at hand, the appellant despite availing a number of opportunities for a period exceeding over one year has failed to pay the court fee, therefore, the appeal filed by the appellant is liable to be dismissed for want of payment of court fee and ordered accordingly.

(Rekha Mittal)
Judge

5.2.2016
paramjit