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

RA-RS-110-C-2016 [O&M]
in RSA-5143 of 2013
Date of Decision : December 8, 2016

Kanta Appellant

Versus

Gajanand ..Respondent/applicant

CORAM : HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN.

Present Mr. Som Nath Saini, Advocate,
for the applicant-respondent.

Mr. A.K.Ahluwalia, Advocate,
for the non-applicant/appellant.

SHEKHER DHAWAN, J.

Present Review Application having been filed by applicant-respondent – Gajanand, under Order 47 Rule 1 & 2 CPC read with Section 151 CPC seeking review of Judgment and decree dated 21.03.2016 passed by this Court, whereby RSA No. 5143 of 2013 filed by the non-applicant, Kanta was partly allowed and the findings of Court of first Appeal recorded vide judgment and decree dated 27.09.2013 were modified to the extent that the plaintiff was held entitled to seek payment of Rs.50,000/- which was paid as earnest money alongwith interest at the rate of 9% per annum from the date of payment till date of actual realization. Alongwith the Review Application, an application [CM No. 12147-C-2016] seeking condonation of delay of 75 days has also been filed.

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2. Learned counsel for the applicant contended that in fact, the house in question is not a residential house of the appellant/non-applicant or her father and this fact is evident from the sale deed dated 19.11.2013 and agreement dated 5.6.2013. More so, the appellant has wrongly mentioned her address as resident of Charkhi Darwaja, near Hanuman Mandir, Charkhi Dadri whereas, she is married at Neem Ka Thanna, District Ganga Nagar, Rajasthan. The so-called house cannot be even described as a residential house but it is only a one room *khola* and is permanently locked. So, the findings recorded by this Court while deciding Regular Second Appeal and partly modifying the judgment and decree passed by the Court of first Appeal require reconsideration. The present review application be accepted and the RSA be dismissed.

3. Learned counsel for the non-applicant contended that the scope of review jurisdiction is limited one and the same cannot be extended for substituting a view taken by this Court on merits. All these contentions were raised at the time of arguments and there are no grounds for review. The house in question is still the only house of the non-applicant and the same has not been sold, as alleged by the applicant. There is no material available on the file to come to such a conclusion and the findings recorded by this Court while deciding the RSA do not call for any review as no ground for review exists. More so, the Review Application has been filed after an inordinate delay of 75 days which largely remains unexplained. So, the review application be dismissed.

4. Having considered the submissions made by learned counsel for

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both the parties, this Court is of the considered view that the Court had already taken in to consideration all the aspects of the case while deciding RSA including the fact that the house in question is the only residential house of the non-applicant. There is no material available on the file that the said house is in fact, not a residential house. Learned counsel for the applicant wants to re-open the case and re-argue the matter by taking the same pleas which were earlier raised by them and dealt with by this Court in the judgment under review, which is not permissible in view of the law laid down by Hon`ble Supreme Court in **Parsion Devi Vs. Sumitri Devi, 1997 (4) R.C.R. [Civil] 458.** This Court does not find any illegality in the judgment passed by the Court which may warrant any interference by way of present review application.

5. In view of the above, there is no ground for condonation of delay of 75 days in filing the Review Application. Consequently, the Review Application stands dismissed being without any merit and having been filed after such a long delay.

(SHEKHER DHAWAN)
JUDGE

December 8, 2016

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Whether speaking/reasoned	:	Yes
Whether Reportable	:	Yes