

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

**RSA No.4514 of 2015 (O&M)
Date of Order: 16.12.2017**

Ram Singh

..Appellant

Versus

Bhagmal

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arvind Kumar Yadav, Advocate,
for the appellant.

ANIL KSHETARPAL, J (Oral)

C.M.No.10811-C-2015

Prayer in this application is for condonation of delay of 32 days
in filing the appeal.

For reasons mentioned in the application, which is supported by
an affidavit, the delay of 32 days in filing the appeal is condoned.

Application is allowed.

RSA No.4514 of 2015

Defendant-appellant is in the regular second appeal against the
concurrent findings of fact arrived at by the Courts below.

Plaintiff and defendant are brothers. Plaintiff filed a suit for
possession by way of specific performance to agreement to sell dated
02.07.2007. Agreement to sell was proved by examining attesting witness
Raj Singh.

Defendant denied the agreement to sell, however, he submitted that his thumb impressions were taken by the defendant by playing fraud on him.

Both the courts after appreciating the evidence available on the file, decreed the suit filed by the plaintiff.

Learned counsel for the appellant has vehemently argued that the payment of the consideration is not proved on the file. He has further submitted that a fraud has been played with the defendant-appellant as he is illiterate.

I have considered the submission of learned counsel for the appellant. It is specifically recorded in the agreement to sell which is in writing that the defendant-appellant has already received Rs.7 lacs. It is further recorded in the agreement to sell that the defendant had taken a loan from the bank and he had repaid the amount. It is further significant to note here that one of the attesting witnesses Raj Singh is also the brother of the plaintiff and the defendant.

In these circumstances it can not be said that payment of the consideration has not been proved on the file.

Second argument of learned counsel is that a fraud has been played with the defendant-appellant.

Both the courts have considered this submission and found that defendant has failed to lead any evidence to prove fraud. Only defendant himself has stepped into the witness box. No other evidence has been lead. The agreement to sell runs into two pages. Both the pages have been thumb marked by the defendant-appellant. The agreement to sell is executed on a non judicial stamp papers of Rs.10/-. It is not believable that the defendant-

appellant signed the blank papers without knowing contents thereof.

In view of the aforesaid, there is no ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

December 16, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No