

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

**RSA No. 6233 of 2016 (O&M)
Date of Decision: 25.09.2017**

Bhateri Devi

..... Appellant/Defendant

Versus

Prashant Verma

..... Respondent/Plaintiff

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Akshay Kumar Goel, Advocate
for the appellant-defendant.

JASWANT SINGH, J. (ORAL)

Appellant-defendant (vendor) has filed the present second appeal, assailing the judgment and decree dated 11.06.2011 passed by learned Civil Judge (Junior Division), Bhiwani, whereby the suit of the plaintiff/respondent-Prashant Verma for possession by way of specific performance of agreement to sell dated 28.05.2008 was decreed *in toto*; and the appeal filed by the defendant/appellant was dismissed vide judgment and decree dated 03.05.2016 on the ground of delay of 2 years 2 months and 18 days.

Learned counsel for the appellant-defendant heard at length.

The case of the plaintiff/respondent was that for a sale consideration of Rs. 5,15,000/-, an agreement to sell was executed by defendant/appellant-Bhateri Devi on 28.05.2008 in the presence of witnesses and also received a sum of Rs. 2,50,000/- by way of cheque as earnest money. The target date for execution of sale deed was 27.11.2008

and on the target date, the plaintiff/respondent presented himself in the

office of Sub Registrar, Bhiwani, alongwith the purchase of requisite stamps and balance sale consideration of Rs. 2,65,000/-, however, the defendant/appellant did not come present to execute the sale deed and the plaintiff, thereafter, served a legal notice on 05.03.2009, requesting the appellant-defendant for execution of the sale deed and then was constrained to file the aforesaid suit on 04.05.2009.

Defendant/appellant in the written statement denied the execution of the aforesaid agreement to sell and stated that Shri. Narender Prabhakaer (father of plaintiff), is engaged in the business of finance and extending the loans. The thumb impressions of the defendant on some blank papers had been obtained at the time of borrowing some amount by the plaintiff, which have been used for forging the agreement to sell.

Issues were framed and evidence adduced by the parties.

The trial Court found that the plaintiff had proved the agreement to sell (Ex. P-1); the receipt of earnest money (Ex. P-2); endorsement (Ex. P-3) verifying the fact of execution of agreement to sell, receipt of earnest money by adducing the evidence of the attesting witnesses and the Advocate concerned. The presence of the plaintiff in the office of Sub Registrar was also proved, whereas the defendant could not lead any evidence to prove that she had raised a loan and, thus, her thumb impressions were obtained on blank papers. Defendant had not adduced any evidence before the trial Court and was also unable to rebut the conclusive cogent evidence led by the plaintiff. The plaintiff, from the material on record, was also able to show his willingness and readiness to perform his part of the agreement. Thus, the trial Court rightly decreed the suit of the plaintiff and this Court also is in full agreement with the well founded

reasoning adopted by the trial Court.

This Court finds that the Lower Appellate Court has also rightly dismissed the appeal, while dismissing the application for condonation of delay of 02 years 02 months and 18 days, as the said application was loosely drafted without sufficient reasons forthcoming. Even during the course of arguments before this Court, learned counsel for the appellant-defendant is unable to provide any sufficient reason for condonation of delay.

In view of above, no ground for invoking the jurisdiction under Section 100 of Civil Procedure Code, 1908 in the present appeal is made out, therefore, the same is dismissed.

September 25, 2017

'dk kamra'

**(JASWANT SINGH)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No