

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

RSA No.3646 of 2017 (O&M)

Date of decision : 28.08.2017

Harbans Singh

...Appellant

Versus

Debo

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Mehsempuri, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.8828-C of 2017

This is an application for condonation of delay of 50 days in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 50 days in refiling the appeal is condoned.

Application stands allowed.

CM No.8829-C of 2017

This is an application for affixing the Court fees in the above mentioned appeal.

For the reasons stated in the application, which is duly supported by an affidavit, application is allowed.

Deficiency in the payment of court fees has been made good.

Delay, if any, is condoned.

CM No.8830-C of 2017

Application is allowed, as prayed for.

Main Case

The plaintiff-appellant is in Regular Second Appeal against the judgments passed by the Courts below.

The plaintiff had filed a suit for specific performance of the agreement to sell dated 07.07.2006. The plaintiff is son and defendant is mother. Both the Courts after appreciating the evidence available on the file recorded a concurrent findings of fact that the agreement to sell is proved and passing of consideration is also proved.

However, both the Courts have refused to exercise the discretion as provided under Section 20 of the Specific Relief Act, 1963 taking into consideration the relationship between the parties and the evidence on record that ladies observe *parda* i.e. veil and plaintiff was in dominating position. The Courts have also observed that the plaintiff was in a fiduciary relationship with the defendant.

Both the Courts have exercised the discretion which is not found to be erroneous.

Regular Second Appeal is dismissed.

28.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No