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

CR No. 4778 of 2017

Date of Decision: 27.09.2018

Gurmeet Kaur and others

-Petitioners

Vs

Mishri Lal

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Naveen Bawa, Advocate,
for the petitioners.

Mr. Harish Sharma, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

This revision petition has been preferred by the petitioners against the order dated 29.04.2017 passed by Additional District Judge, Ludhiana dismissing the application under Section 5 of the Limitation Act. As a consequence of dismissal of the application, the appeal was also dismissed.

Plaintiff filed a suit for specific performance of agreement to sell dated 13.01.2009. Defendants were proceeded against exparte in the suit after their appearance before the trial Court.

The suit was decreed vide judgment and decree dated 26.10.2015 and the plaintiff was held entitled to

possession of the suit property by way of specific performance on payment of balance sale consideration. Defendants were directed to get the sale deed executed in favour of the plaintiff as per agreement to sell in question on receipt of balance sale consideration within two months from the date of passing of the decree, failing which plaintiff was held entitled to get the judgment and decree executed through process of the Court. Defendants were restrained from alienating the suit property to any other person except the plaintiff and from interfering in peaceful possession of the plaintiff over the room as shown in the site plan.

Learned counsel for the respondent refers to para No.16 of the impugned order and contended that knowledge in respect of decree passed by the trial Court was very much available to the defendants on 26.10.2015 itself. One of the petitioners i.e. Rajinderpal Singh while appearing as AW1 had admitted this fact in his cross-examination that they came to know about the decree dated 26.10.2015 and they did not apply for obtaining certified copy of the judgment and decree for 5-6 months.

In addition to the aforesaid, learned counsel submitted that in execution proceedings in respect of decree dated 26.10.2015, judgment debtors-petitioners have duly

appeared and filed their objections in the execution. The objections were dismissed and thereafter, sale deed dated 06.03.2017 has already been executed in favour of the decree holder-respondent by process of the Court.

Even though the issue regarding condonation of delay was involved in the present revision petition but in a way, this revision petition has become infructuous as no *lis* survives after execution of sale deed with the process of the Court.

No indulgence can be granted to the petitioners in this revision petition.

This revision petition is accordingly, dismissed.

27.09.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No