

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

**RSA No.2989 of 2016 (O&M)
Date of Order:10.08.2018**

Ramjesh Singh Jhaj

..Appellant

Versus

PSB Housing Finance Limited

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashok Sehgal, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

C.M.No.7990-C of 2016

Prayer in this application is for condonation of delay of 09 days
in re-filing the appeal.

For reasons mentioned in the application, which is supported by
an affidavit, the delay of 09 days in re-filing the appeal is condoned.

Application is allowed.

MAIN

Defendant-appellant is in the regular second appeal against the
concurrent findings of fact arrived at by the courts below while passing a
preliminary decree against the defendant-appellant to pay the amount within
four months of the preliminary decree, failing which the plaintiff will be
entitled to sell the mortgaged property.

Plaintiff, a finance company, filed a suit for recovery of
Rs.7,38,096/- with the assertion that the defendant had taken a loan of
Rs.4,00,000/- for the construction of house on 08.09.1994, which was re-

payable in equated 120 monthly installments of Rs.7685/-.

Defendant contested the suit and pleaded that he has paid Rs.5,50,000/-.

On appreciation of evidence the court found that the appellant is still have to pay Rs.7,38,096/- and he was held entitled to pay the same with future rate of interest @ 6% per annum. Appeal filed was also dismissed after re-appreciating the evidence.

Learned counsel for the appellant submitted that since the property was situated at Mohali, therefore, Civil Court at Chandigarh did not had any territorial jurisdiction. He further submitted that the original conveyance deed has not been produced on file. He further submitted that as per the order passed by this Court in SAO No.10 of 2009, interest from the date of framing of issues till the date of the decision by this Court dated 08.01.2010 could not be granted.

It is not disputed that no issue was framed by the courts below with regard to lack of territorial jurisdiction. No objection was taken by the defendant before the trial court. Still further it has been specifically pleaded in the plaint that loan agreement was signed within the territorial jurisdiction of Chandigarh. Further defendant-appellant has not shown any prejudice caused or any inability to defend the case. After having defended the case unsuccessfully, a contention is being raised before this Court for first time. Hence, this court does not find any ground to entertain such an objection.

Second argument of learned counsel is that the original conveyance deed has not been produced.

It may be noted that a copy of the conveyance deed was duly

exhibited as Ex.PW5/A. Counsel appearing for the appellant failed to object when original conveyance deed was exhibited. Still further the pronote, statement of accounts, copies of the notices, original loan agreement etc. etc. have been produced to prove the amount due. Defendant-appellant also does not dispute that he had borrowed the amount from the plaintiff-respondent-company. In such circumstances, once overwhelming evidence has been produced on file, non production of original conveyance deed would not come to rescue the appellant.

Last submission of learned counsel for the appellant is with regard to the order passed by this court in SAO No.10 of 2009.

On careful examination of the aforesaid order, it is apparent that this court had directed that the plaintiff shall not be entitled to charge any enhanced or penal interest. No enhanced or penal interest has been awarded.

In view thereof, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

August 10, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No