

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

**RSA No.3794 of 2016 (O&M)
Date of Order: 27.07.2018**

Gurdeep Singh

..Appellant

Versus

Lehmbar Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naveen Batra, Advocate,
for the appellant.

ANIL KSHETARPAL, J.

C.M.No.9867-C of 2016

Prayer in this application is for condonation of delay of 17 days
in re-filing the appeal.

For reasons mentioned in the application, which is supported by
an affidavit, the delay of 17 days in re-filing the appeal is condoned.

Application is allowed.

RSA No.3794 of 2016

Plaintiff-appellant is in the regular second appeal against the
concurrent findings of fact arrived at by the courts below while granting
alternative relief of refund of the earnest money rather than specific
performance of the agreement to sell.

It is not in dispute that as per the agreement to sell dated
14.02.2006, sale deed was to be executed and registered on 14.10.2006. It
is the case of the plaintiff that since 14.10.2006 and 15.10.2006 were

holidays, therefore, he visited the office of the Sub-Registrar on 16.10.2006 and marked his presence. The suit was instituted on 15.10.2009.

Both the courts have found that from 16.10.2006 to 15.10.2009 i.e. a period of 3 years, plaintiff did not take any step which may prove his willingness to perform his part of the contract. Both the courts after noticing the aforesaid fact, have exercised discretion under Section 20 of the Specific Relief Act, 1963. Such exercise of discretion is in accordance with well settled judicial principles.

In view thereof, this court does not find any good ground to interfere.

The regular second appeal is dismissed.

July 27, 2018
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(ANIL KSHETARPAL)
JUDGE

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