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

RSA No. 4002 of 2016 (O&M)

Date of Decision: 06.08.2018

Teja Singh

.....Appellant

Versus

Sukhdev Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Naresh Kumar Manchanda, Advocate,
for the appellant.

RAJ MOHAN SINGH, J. (Oral)

CM-10332-C-2016

For the reasons mentioned in the application, delay
of 36 days in re-filing the present appeal is condoned.

Application stands disposed of.

Main case

1. Plaintiff is in regular second appeal in a suit for permanent injunction. The suit was filed on the basis of agreement to sell executed by defendants No.1 and 2. There was no recital of loan taken from defendant No.3 but the plaintiff was told the aforesaid fact and plaintiff allegedly paid Rs.25,000/- for the loan availed by defendant No.1 and Rs.20,000/- for the loan availed by defendant No.2 in defendant No.3-Bank.

2. Plaintiff alleged that the possession was delivered to the plaintiff but defendant No.3 obtained a civil court decree for recovery against defendants No.1 and 2.

3. Evidently, no suit for specific performance was filed by the plaintiff. The suit for injunction was hit by Section 41-H of the Specific Relief Act.

4. In view of non-maintainability of the suit, the plea of the plaintiff in respect of his possession being permissive or protected under Section 53-A of the Transfer of Property Act cannot be gone into. Moreover, defendant No.3-Bank has already taken possession of the suit property in the execution.

5. In view of aforesaid attending circumstances, no indulgence can be granted in favour of the plaintiff-appellant who has lost possession in execution of a decree in due course of law.

6. This regular second appeal is accordingly, dismissed.

06.08.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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