

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

**RSA No.5017 of 2016 (O&M)
Date of Decision.09.05.2018**

Sardara Singh

...Appellant

Vs

Rai Singh Chauhan and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Maninder Arora, Advocate
for the appellant.

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AMIT RAWAL J.(ORAL)

C.M. No.13058-C of 2016

For the reasons stated in the application, delay of 103
days in refiling the appeal is condoned.

Application is allowed.

RSA No.5017 of 2016

The appellant-plaintiff is in regular second appeal despite the fact that the suit claiming balance sale consideration of Rs.2,05,000/- has been decreed by the trial Court and the defendant had been directed to pay the amount within a period of two months. An agreement to sell dated 13.03.2009 was entered between the plaintiff and the defendant for total sale consideration of Rs.3,65,000/-. However, Rs.1,60,000/- had been paid and despite the fact that the sale deed had already been executed, gave cause of action to file the suit. The trial Court on the basis of averments coupled with the evidence decreed the suit. The lower Appellate

Court in appeal while upholding the judgment and decree of the trial Court granted interest @9% per annum from the date of decree of the lower court till its realization.

Learned counsel for the appellant-plaintiff submitted that the lower Appellate Court ought to have granted the interest from the date of agreement to sell i.e. 13.03.2009 or at the best from the date of filing of the suit dated 02.02.2010.

I have heard learned counsel for the appellant, appraised the paper book and of the view that non-granting of interest could not be fatal, for, it was not the default of the defendant, therefore, the plaintiff cannot be permitted to put blame on the defendant as no prudent and sane person would execute the sale deed without receipt of the balance sale consideration. He had been lucky that on the preponderance of evidence, the trial Court granted the decree otherwise registered document carries presumption of truth.

Be that as it may, in view of such fact, I am of the view that non-grant of interest on the balance sale consideration cannot be said to gross illegality and perversity to modify the judgment and decree of the lower Appellate Court as sought for.

I am not unmindful of the fact that the appeal is accompanied by an application seeking condonation of delay of 283 days in filing the appeal. The reasoning assigned in the application is also bereft of explanation of each and every day delay.

In view of the aforementioned, the argument of Mr. Maninder Arora has not been able to bring the case within the realm of illegality and perversity, much less, no substantial question of law

arises for determination. No ground for interference is made out.
The appeal is dismissed on merits as well as on limitation.

(AMIT RAWAL)
JUDGE

May 09, 2018
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No