

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

**RSA No.367 of 2017 (O&M)
Date of Decision.30.10.2018**

Sant RamAppellant

Vs

Ram Dhan (since deceased) through LRs ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Sharma, Advocate
for the appellant.

-:-

AMIT RAWAL J. (ORAL)

C.M. No.810-C of 2017

For the reasons stated in the application, delay of 80 days
in filing of the appeal is condoned.

Application is allowed.

C.M. No.811-C of 2017

For the reasons stated in the application, delay of 57 days
in re-filing of the appeal is condoned.

Application is allowed.

RSA No.367 of 2017

Learned counsel for the appellant defendant has drawn
attention of this Court to para 12 of the judgment of the Trial Court,
which has not been disputed, in essence, he submitted that entitlement
of the plaintiff to recover ₹1 lac with interest @9% per annum from
the date of mortgage dated 21.04.2004 till filing of the present suit
and future interest @6% per annum from the date of filing of the suit
till actual realization is the correct interpretation but in the relief
clause, ordered for recovery of ₹1,78,000/- along with interest

calculated up to date in the loan account of defendant along with interest @9% per annum from the date of mortgage till filing of the suit and future interest @6% per annum from the date of filing of the suit till its actual realization.

The specific arguments in this context was also raised before the lower Appellate Court but was not adverted to.

I have gone through the judgment and decree of the lower Appellate Court and of the view that there is no such finding by the lower Appellate Court. In such circumstances, I am of the view that it would be appropriate for the appellant to seek review of the judgment passed by the lower Appellate Court being the last court of fact and law to get the alleged error apparent on the face of record corrected.

The appeal is disposed of in above terms.

(AMIT RAWAL)
JUDGE

October 30, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No