

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

**RSA No.5788 of 2017 (O&M)
Date of Decision.13.12.2018**

Subhash Chander

...Appellant

Vs

Satpal (since deceased) through LRs and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. J.S. Cooner, Advocate
for the appellant.

-:-

AMIT RAWAL J. (ORAL)

C.M. No.15295-C of 2017

For the reasons stated in the application, delay of 98 days in
filing the appeal is condoned.

Application is allowed.

RSA No.5788 of 2017

The appellant-plaintiff has not been successful in seeking
specific performance of agreement to sell dated 05.03.1998 whereby
the defendant allegedly agreed to sell the suit land for certain
consideration.

Mr. Cooner, learned counsel appearing for the appellant
submitted that the agreement to sell was witnessed by two witnesses
and a scribe and the defendant had appended the signatures. The
defendant did not appear but produced GPA. Assistance of the lower
Appellate Court by way of additional evidence was sought to examine
the expert which was allowed but the defendant assailed the same in
revision petition before this Court but in the meantime, appeal came
to be dismissed. Mr. Cooner further submitted that the matter

requires fresh consideration.

I am afraid aforementioned argument is not sustainable. If there was some actual grievance, nothing prevented the appellant to seek leave of this Court by way of additional evidence. In the absence of the same, the aforementioned plea cannot be looked into. One of the attesting witness PW5 after tendering evidence in examination-in-chief did not offer himself for cross-examination. In essence, plaintiff failed to discharge onus with regard to execution of the agreement to sell. In such circumstances, dismissal of the suit was inevitable.

The concurrent finding of fact and law arrived at by the Courts below cannot be faulted with, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 13, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No