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

RSA No. 2245 of 2019 (O&M)
Date of Decision: 09.07.2019

Surjit Singh and another

-Appellants

Vs

Gurjit Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. C.S. Jattana, Advocate,
for the appellants.

RAJ MOHAN SINGH, J.

CM No.6017-C of 2019

There is a delay of 1546 days in re-filing the present appeal.

After considering the grounds of delay in re-filing the appeal, I am of the view that the delay needs to be condoned in order to appreciate the controversy on merits.

For the reasons mentioned in the application, delay of 1546 days in re-filing the present appeal is condoned.

Application stands disposed of.

Main case

The present appeal has been preferred by the plaintiffs against concurrent judgments and decrees passed by

both the Courts below in a suit for recovery.

Plaintiffs filed a suit for recovery of Rs.15 lacs paid as earnest money as per agreement to sell dated 11.01.2006. The date of execution of sale deed was further extended to 08.02.2006. On 08.02.2006, defendant modified the conditions of agreement to sell dated 11.01.2006 and added Khewat No.66/169 with a clarification that he shall complete 47 Bighas of land out of Khewat No.66/169 and Khewat No.164/167 by leaving passage of width of 2 Karams in the land. The addition was made on 08.02.2006 after receiving an amount of Rs.5 lacs. Receipt of Rs.15 lacs was given thereby admitting the earlier receipt of Rs.10 lacs and amount of Rs.5 lacs paid on 08.02.2006. The target date for execution of sale deed was fixed as 15.05.2006. The same was extended upto 17.05.2006.

Perusal of the record would show that in case of non-compliance of conditions of agreement to sell, plaintiffs could have filed suit for specific performance. In case of violation on the part of the plaintiffs, the earnest money was required to be forfeited.

Both the Courts below have recorded findings of fact that execution of agreement to sell dated 11.01.2006 and presence of defendant in the office of Sub Registrar on 17.05.2006 was proved. Plaintiffs were never ready and willing

to perform their part of contract. The Courts below have recorded statement of Surjit Singh-plaintiff PW6. Plaintiffs were never ready and willing to perform their part of obligation. Plaintiffs have even failed to prove that they were having requisite balance sale consideration and other expenses on the target date whereas the defendant by way of cross-examination of plaintiff himself was successful in extracting incriminating information from him that the plaintiffs were never ready and willing to perform their part of obligation.

The failure on the part of the plaintiffs would have forfeited the amount of earnest money. The findings of fact recorded by both the Courts below could not be shown to be perverse or result of mis-reading of evidence.

Both the Courts below have concurrently recorded findings of fact.

No substantial question of law worth consideration of this Court is involved in this appeal.

This appeal is found to be totally devoid of merits and is accordingly, dismissed in limine.

09.07.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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