

**RA-RS-87-2019 in
RSA No.3619 of 2012**

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

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**RA-RS-87-2019 in
RSA No.3619 of 2012**

Date of decision: 10.07.2019

Ashwani Kumar

..... Appellant

Versus

Jaspal Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Dr. Naresh Kaushik, Advocate
for the applicant-respondent.

ANIL KSHETARPAL, J. (ORAL)

CM-8776-C-2019

For the reasons stated in the application, the delay of 114 days
in filing the review-application is condoned.

Application stands disposed of.

CM-8775-C-2019

Learned counsel for the applicant submits that the deficiency in
Court fee has been made good. The delay, if any, is condoned.

Application stands disposed of.

Main Case

Learned counsel for the review-applicant submits that
inadvertently due to mistake, two factors could not be brought to the notice
of the Court at the time of disposal.

1. The sale deed pursuant to the decree for specific performance

has already been executed.

2. The defendant-appellant had already withdrawn the amount.

In the present appeal, the discretion exercised by the learned First Appellate Court in granting decree for specific performance of the agreement to sell while substituting the decree for refund of earnest money along with interest granted by the trial Court, was found erroneous, therefore, set aside. The present appeal was pending since 2012. If during the pendency of the appeal, in execution the sale deed has been executed and the money has been withdrawn by the defendant-appellant, his rights in the appeal does not stands forfeited. The proceedings in the execution petition are always subject to the orders passed by the Court in the appeal.

In view thereof, no ground to review has been made out.

Hence, review application is dismissed.

10.07.2019
D.Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No