

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

RSA No.3279 of 2016 (O&M)

Date of decision:18.01.2019

Suba Singh and another

... Appellants

Vs.

Dharam Dutt and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vivek Salathia, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.8711-C of 2016

For the reasons stated in the application which is duly supported by an affidavit, delay of 59 days in re-filing the appeal is condoned.

C.M. stands allowed.

RSA No.3279 of 2016 (O&M)

The present regular second appeal is directed against the concurrent findings of facts and law, whereby, suit of the appellant-plaintiffs seeking specific performance of the agreements to sell dated 21.11.1979 and 29.08.1980 in respect of suit property entered into between their predecessors-in-interest and that of defendants, has been dismissed.

The suit aforementioned was filed in 2003 which was dismissed but in appeal, was remitted, by giving liberty to the plaintiffs to lead

additional evidence to prove the aforementioned agreements. Despite that, aforementioned agreements have not been proved and none of the witness has been examined resulted into dismissal of the suit.

Mr. Vivek Salathia, learned counsel appearing on behalf of the appellant-plaintiffs submitted that time was not essence of the agreement and the Courts below ought not to have dismissed the suit though there were pleading qua readiness and willingness.

I am afraid the aforementioned argument is not sustainable, for, in the absence of proof of agreements to sell, *ibid* and particularly when no action was taken by the predecessors for performance of the agreement to sell and therefore, rightly, the suit was held to be not maintainable and barred by law of limitation.

No ground for interference is made out.

Resultantly, the regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 18, 2019
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No