

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

RSA No.3274 of 2017 (O&M)

Date of decision:17.01.2019

Dheeraj Chadha

... Appellant

Vs.

Balraj Krishan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

AMIT RAWAL J. (Oral)

C.M.No.8002-C of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 47 days in re-filing the appeal is condoned.

C.M. stands allowed.

RSA No.3274 of 2017 (O&M)

Short point involved in the present case is whether in pursuance to the agreement to sell dated 18.02.2004 entered into between the parties for sale of the land against the receipt of earnest money of Rs.2,60,000/- agreed to be sold for a total sale consideration of Rs.3,20,000/- and the target date for execution and registration of the sale deed was fixed as 08.08.2005, during the subsistence, the vendor had sold the property vide sale deed dated 17.06.2005 to respondent no.2 and part of the property to respondent no.3, the suit for declaration, mandatory and permanent

injunction would be maintainable or not, the answer would be 'No'.

The plaintiff had not sought any specific performance or alternative relief but challenged the sale deed straightway. Once there is specific remedy under the statute i.e. Specific Relief Act, 1963, simpliciter suit for declaration and mandatory injunction was not maintainable.

Resultantly, the regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 17, 2019

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No