

**RA-CR-29-CII-2018 (O&M) IN
CR-1763-2013**

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

**RA-CR-29-CII-2018 (O&M) IN
CR-1763-2013
Date of decision : 21.02.2019**

Narinder Singh and another

... Applicant/petitioners

Versus

Gurcharan Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajinder Singh Aulakh, Advocate
for the applicant-petitioners.

AMIT RAWAL, J. (ORAL)

The revision petition has been filed, in the year 2013, against the impugned order dated 27.01.2010, whereby the application under Section 28 of the Specific Relief Act, at the instance of the petitioners-judgment debtors, has been dismissed.

This Court, vide order dated 16.01.2018, dismissed the revision petition as the revision petition was not accompanied by the application for condonation of delay.

The present review application under Order 47, Rule 1 read with Section 114 of the Code of Civil Procedure has been filed for recalling of the order dated 16.01.2018 (Annexure A-1) as the petitioners have sufficient ground for setting aside the impugned order dated 27.01.2010.

The respondents-plaintiffs had filed the suit for specific

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performance of agreement to sell, which resulted into, decretal of the suit on 20.01.2005, whereby they called upon to pay the balance sale consideration of ₹36,000/- within a period of two months.

The petitioners-judgment debtors, preferred an appeal on 08.11.2005 and the same was dismissed on 11.06.2007.

Mr. Rajinder Singh Aulakh, learned counsel appearing on behalf of the review applicant/petitioners submitted that there was no interim stay. Since the decree holder did not deposit the amount within a period of two months from the date of dismissal of the appeal, presumably there was a likelihood of different judgment, but in fact deposited on 08.10.2007, thus, the decree had become unexecutable. The Court below have erroneously rejected the application without appreciating the aforementioned facts.

I am afraid the aforementioned argument is not sustainable in the eyes of law as the delay in challenging the impugned order is itself fatal to consider the merit of the impugned order. By this time, the decree had already become final as the consequential effect of the sale deed and possession must have been taken care of. Any reasonable and prudent person would not take the risk of depositing of the amount, keeping in view the fact that the appeal was pending. There was a predictament in the mind of the decree holder, regarding outcome of the appeal. Immediately, thereafter, dismissal of the appeal, on 11.06.2007, the amount was deposited on 08.10.2007.

Keeping in view the aforementioned facts, the impugned order, under challenge, cannot be said to be suffering from illegality and

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perversity. No explanation has come forth in not filing the revision petition within promptitude as there was a delay of three years. All these factors, if read in cumulative, lead to an irresistible conclusion that the petitioners are frank to reignite the fire, which has already been doused.

No ground is made out for interference.

Resultantly, the review application is dismissed.

21.02.2019
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**