

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

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**CM-12704-05-C-2018 in
RA-RS-82-C-2018 in
RSA-2440-2017
Date of Decision : 27.2.2019**

Vinay Bhushan Jhamb and others**....Applicants-appellants****vs.****Pritam Singh (deceased) through his LRs****....Respondent****CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

Present: Mr. B.B.S.Sobti, Advocate
for the applicants-appellants.

AJAY TEWARI, J. (Oral)**CM-12704-C-2018**

This is an application for making good for deficiency in court fee.

For the reasons recorded in the application, the same is Allowed and deficiency of the Court fee makes good.

CM-12705-C-2018

For the reasons recorded, the application is allowed. Delay of 85 days in filing the review application is condoned.

RA-RS-82-S-2018

This is an application seeking review of the the judgment dated 6.2.2018 by which the regular second appeal filed by the applicants-appellants was dismissed.

Learned counsel for the applicants-appellants has argued that the judgment of the lower Appellate Court reveals that the respondent had lied about the endorsement of 14.3.2008 and once that was so the appellant was entitled to grant one more opportunity to lead its entire evidence and rather even without granting one more opportunity the suit should have been decreed.

In this connection, it is sufficient to notice that even if the endorsement dated 14.3.2008 is accepted yet it was incumbent upon the applicant-appellant to prove his willingness and readiness on the date which as per him was extended but in this context the appellant had appeared in the Court on 11.5.2012 and submitted his affidavit by way of evidence in deep. On that date the case was deferred for cross-examination on the request of counsel for the appellant. However, thereafter the appellant did not appear to give his evidence despite various opportunities granted to him (which have been detailed in judgment dated 6.2.2018). As regards this omission learned counsel has argued that on 11.5.2012, the appellant was bound down and if he was not appearing the Court should have taken resort to secure his presence. In my considered opinion, even if the appellant was bound down yet the fact remains that it was his suit he had to prove his willingness and readiness. Once he did not appear for cross-examination it could be said that his readiness and willingness is not proved.

The third argument raised by the learned counsel for the applicant-appellant is that there was no issue of readiness and willingness. The issue No.1 is to the following effect :-

“1. Whether the plaintiffs are entitled to possession of

*suit property by way of specific performance of agreement dated
14.12.2007 as prayed for ? OPP*

In my considered opinion, it covers the factors of readiness and
willingness.

Consequently, application stands dismissed.

27.2.2019
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No