

**RSA-1365 of 2022**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1365-2022 (O&M)**Decided on : 03.09.2025****Santa Singh****.....Appellant****Versus****Kartar Singh (through his LRs) & Ors.****.....Respondents****CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA****Present:** Mr. R.K. Arya, Advocate, for the appellant.**DEEPAK GUPTA, J.****CM-4282-C of 2022**

This is an application under Section 5 of the Limitation Act to condone the delay of 931 days in filing the appeal.

2. Suit for specific performance filed by plaintiff Santa Singh (*appellant herein*) was dismissed by the trial Court on 16.09.2015, whereas appeal filed by him was dismissed by the First Appellate Court on 01.07.2017.

3. Against the concurrent findings of the Courts below, plaintiff filed the present appeal in April 2022 along with instant application, seeking condonation of delay.

4. It is submitted by learned counsel for the applicant that the certified copy of the judgment passed by the learned Addl. District Judge, was received by the appellant on 12.07.2017. Appeal was then filed in the Registry but was returned on 16.09.2017 with certain objections. The objections were removed and the appeal was filed on 30.11.2017. However, despite making efforts, the counsel for the applicant-appellant could not trace the paper-book and in those circumstances, he filed another set of paper-book with this Court with a delay of 1648 days in filing the appeal. It is contended that delay was not deliberate on the part of appellant-plaintiff. Although in para No.4 of the application, it is mentioned that there is a delay of 1648 days in filing the appeal, but in the relief clause, it is mentioned that there is a delay of 931 days.

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5. The application is supported with an affidavit of Sh. Chander Shekhar, Clerk of Sh.R.K. Arya, Advocate.

6. Learned counsel for applicant-appellant is unable to convince this Court that in case the appeal was refilled on 30.11.2017 after removing the objections, then what was the necessity to file another appeal. In case the appeal had been refiled, there was no question of filing the second appeal.

7. The appellant has not been able to justify the long delay of more than 04 years in approaching this Court after the dismissal of his appeal by the First Appellate Court. As such, this Court does not find any merit in the application to condone the delay and the same is hereby dismissed.

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8. Although, the appeal deserves to be dismissed being barred by limitation but even if it is considered on merit, it is noticed that as per contention of the plaintiff-appellant, agreement was executed on 23.10.1993 for consideration of ₹4250/-; no target date was fixed and entire sale consideration was paid. Defendant No.1-vendor then sold the 12 marla of the suit land in favour of defendant No.3 and executed *muntkilnama* in respect of 1 kanal 10 marla land in favour of his son-defendant No.2. Later on, defendants tried to dispossess the plaintiff. Defendants denied execution of any agreement to sell.

9. As has been observed by the Courts below, the document dated 23.10.1993 referred by the plaintiff as agreement to sell was infact not an agreement to sell and rather, it was a sale-deed. The said document was un-registered and as such, it did not convey any title in favour of the plaintiff.

10. In view of the aforesaid factual position, which Id. counsel for the appellant could not refute, the appeal does not contain any merit and



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there is no reason to disturb the concurrent findings of facts recorded by the Courts below, which are based upon correct appreciation of evidence.

11. So, this appeal is dismissed being bared by limitation and also on merits.

03.09.2025

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**(DEEPAK GUPTA)
JUDGE**

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No