



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-3494-C-2025 in/and

RSA-966-2025 (O&M)

Date of Decision: 03.11.2025

Avtar Singh

. . . . Appellant

Vs.

Charan Singh @ Charan Dass

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present : - Mr. Vishal Thakur, Advocate, for the Appellant.

DEEPAK GUPTA, J.**CM-3494-C-2025**

The appeal is accompanied by the present application under Section 151 CPC seeking condonation of delay of 406 days in filing the present appeal.

2. Suit of the plaintiff-respondent herein for specific performance was decreed on 18.05.2022. Appeal filed by the defendant-appellant herein was dismissed by the First Appellate Court on 21.10.2023. Present appeal has been filed on 08.01.2025.

3. Seeking condonation of delay of 406 days in filing the appeal, it is contended that appellant was having communication gap with his counsel at the trial Court, due of which he was not properly guided by his counsel to file the appeal. It is stated that appellant was not aware about the limitation for filing the appeal before the High Court and it is for this reason that the delay of 406 days occurred in filing this appeal.

4. The grounds for condoning the delay of more than one year are absolutely not justifiable. Simply because the appellant was having communication gap with his counsel before the trial Court cannot be a reason to justify the delay of 406 days in filing the appeal. As such, the application is dismissed being devoid of any merit.

5. CM stands disposed of.

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6. Though the appeal is liable to be dismissed being barred by limitation, as per above order, but even if the same is considered on merits, it is found to contain no substance.

7. Plaintiff sought decree of possession of suit property by way of specific performance based upon agreement to sell dated 24.06.2015, whereby defendant i.e. appellant had agreed to sell the suit property for consideration of ₹15 lakh. He had received an amount of ₹13 lakh as earnest money and agreed to execute the sale deed on or before 31.05.2016 on receiving of balance sale consideration. It was contended by the plaintiff that he appeared before the Sub Registrar on 31.05.2016 along with balance sale consideration, but defendant did not turn up. Plaintiff got his affidavit dated 31.05.2016 attested. He also sent a legal notice dated 15.06.2016 (Ex.P4) to the defendant through registered post, but in vain. Plaintiff claimed that he was always ready and willing to perform his part of contract, but defendant avoided to perform his part of contract.

8. The stand of defendant was total denial. According to him, he neither agreed to sell his land nor received any earnest money. The agreement to sell and receipt Exs.P1 and P2, as relied upon by the plaintiff, were alleged to be based upon fraud and misrepresentation. Prayer was accordingly made to dismiss the suit.

9. After framing of issue and appraising the evidence on record, trial Court decreed the suit, and Appellate Court affirmed the findings, while dismissing the appeal of the defendant.

10. The contention of learned counsel for the appellant that Courts below have failed to appreciate the evidence in right perspective, is found to have no merit.

11. As noticed by learned Courts below, the agreement to sell as well as receipt are proved not only by way of testimony of plaintiff-Charan Singh, who was examined as PW1, but the same were further

proved by the testimony of two of its attesting witnesses namely PW2 Rachan Singh and PW3 Chanan Singh. It is further observed by the Courts below that though defendant contended the agreement to sell to be a result of fraud and misrepresentation, but no particulars of alleged fraud or misrepresentation had been pleaded or proved.

12. In the aforesaid facts and circumstances, this Court has no reason to disturb the concurrent findings of the Courts below, whereby it was held that agreement to sell as well as receipt were duly proved on record and it was defendant-appellant, who failed to perform his part of contract in terms of the agreement executed by him with the plaintiff-respondent.

13. As such, holding the appeal to be devoid of any merit, the same deserves to be dismissed not only being barred by limitation, but also on merits.

Ordered accordingly.

Pending application(s), if any, shall stands disposed of.

03.11.2025

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
Yes