



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

ESA-7-2017 (O&M)

Date of decision : 19.03.2025

Hargopal

...Appellant

Vs.

Anmol Rattan and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Salar, Advocate
for the appellant.

None for respondents No. 2(ii) and 2(iv).

ANIL KSHETARPAL, J. (Oral)

1. The appellant before this Court is the holder of a decree for specific performance of the agreement to sell. On 19.05.2006, his suit was decreed while directing him to deposit the balance sale consideration in the Court within one month. Hence, he was required to deposit the amount on or before 19.06.2006. He filed an application on 13.06.2006 for permission to deposit the amount, which was allowed. However, due to summer vacations, the Courts were closed from 15.06.2006 till 30.06.2006. He deposited the amount on 27.06.2006. He filed an application for condonation of delay, which has been dismissed by both the Courts below.

2. In fact, he was required to file an application for extension of time. While filing the application, the petitioner claimed that he could not deposit the amount as his counsel went out of station due to summer vacations.

3. The First Appellate Court has held that the Court has no power to



extend the period. The observations made by the First Appellate Court is against Section 28 of the Specific Relief Act read with Section 148 of the Code of Civil Procedure, 1963. In fact, this issue is no longer *res integra* in view of the judgments passed by the Hon'ble Supreme Court in '*Kumar Dhirendra Mullick and others vs. Tivoli Park Apartments(P) Ltd*' 2005(9) SCC 262 and '*Ishwar (Since Deceased) Thr. Lrs & Ors. vs. Bhim Singh & Anr.*' (2024) SCC Online SC 2338.

4. The respondents remain unrepresented though the case was called thrice.

5. Hence, the appeal is allowed. The impugned orders passed by both the Courts below are set aside. The appellant has already deposited the amount, hence, the Executing Court will proceed to execute the decree.

6. All the pending miscellaneous applications, if any, are also disposed of.

19.03.2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No