

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

**Date of Decision : February 24, 2025**  
**CM-4465-C-2024 and CM-4466-C-2024**  
**in/and RSA-1146 of 2024 (O&M)**

**Anand Dev****. . . . Appellant**

Vs.

Jitender Kumar

**. . . . RESPONDENT****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA****Present:-** Mr. Abhishek Yadav, Advocate for the appellant.**DEEPAK GUPTA, J.**

Plaintiff of the case is before this Court in the present regular second appeal against the concurrent findings of the Courts below. Suit filed by the plaintiff (appellant herein) seeking decree for specific performance was dismissed by the trial Court on 12.10.2016. The appeal filed by him was dismissed by the First Appellate Court on 13.9.2018.

2. Present appeal is accompanied by an application bearing No.CM-4465-C-2024 to condone the delay of 1130 days in re-filing the appeal.

3. It is contended by learned counsel for the appellant that Clerk of the counsel for the appellant had received the appeal along with certain objections from the Registry, but during shifting of the office, the brief of the appeal was kept in the admitted cases and it came to the knowledge of the counsel for the appellant later on and all this caused delay of 1130 days in re-filing the appeal.

4. There is absolutely no reasonable cause for condoning the huge delay of 1130 in re-filing the appeal. The cause as pleaded by the appellant to condone the delay is hard to believe. It is absolutely not digestable that counsel for the appellant will come to know about non-filing of the appeal with the Registry after removing objections after a period of more than 03 years.

5. As such, this Court does not find any justification to condone such huge delay. The application is dismissed. Consequently, the application bearing No.CM-4466-C-2024 for condoning the delay of 02 days in filing the appeal also stands dismissed.

6. Even if the appeal is considered on merits, it is found that an agreement to sell dated 22.12.1998 was executed by the defendant in favour of the plaintiff to sell 08 kanals out of 20 kanals of the land. Defendant had received the entire sale consideration. Sale deed was promised to be executed in favour of the plaintiff or his nominee. No time limit was mentioned. On the basis of this sale deed, sale deed Vasika No.5738 dated 12.11.2010 was executed, but it was only for 06 kanals 19 marals of land, in favour of the wife of the plaintiff.

7. The case pleaded by the plaintiff is that defendant sought time for execution of the sale deed for remaining 01 kanal 01 marla of land after getting the revenue record corrected, but later on, refused to do so. Defendant resisted the suit. As per his stand, plaintiff did not come forward for getting the sale deed executed and registered in his favour after execution of the agreement in 1998 and that in 2010 when the plaintiff approached, by that time prices of the land had increased many folds so it was agreed between the parties that sale deed would be for the land measuring 06 kanals 19 marals. Both the Courts below have found the said stand of the defendant to be correct. It has further been found that in the sale deed dated 12.11.2010, which is with regard to 06 kanals 19 marals of land, there is no reference of any sale deed to be executed in future qua 01 kanal 01 marla of land. The said sale deed was executed pursuant to the agreement dated 22.12.1998. No cogent evidence could be produced by the plaintiff to show that defendant had agreed to execute the sale deed regarding 01 kanal 01 marla of land after getting any revenue record corrected. He could not convince the Court by producing any evidence as per which revenue entry was to be corrected.

8. Apart from above, the specific performance was being sought by the plaintiff by filing the suit in 2013 based upon agreement to sell executed in 1998.

9. In the aforesaid facts and circumstances, the Courts below did not commit any error in declining the relief for specific performance. This Court does not find any ground to interfere in the well-reasoned concurrent findings of facts as recorded by the Courts below. As such, finding no scope for interference in the same, the present appeal is also hereby dismissed.

Pending application(s), if any, stand(s) disposed of.

**February 24, 2025**  
*Sarita*

**(DEEPAK GUPTA)**  
**JUDGE**

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No