



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

CM-14101-C-2023 in/and
RSA-3946-2023 (O&M)
Date of Decision.:16.07.2025

Ved Parkash

.....Appellant

Vs.

Rajiv Kumar and Others

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Amit Singla, Advocate
for the appellant.

DEEPAK GUPTA, J. (ORAL)

CM-8242-C-2025:

Allowed.

Copy of agreement to sell dated 17.10.2000 (*Annexure A-1*) is
taken on record.

CM-8243-C-2025:

Allowed.

Affidavit of the appellant in support of application for
condonation of delay, is taken on record.

CM-14101-C-2023 & CM-14102-C-2023:

By way of these two applications, appellant seeks to condone
the delay of 437 days in filing the appeal, and another 891 days in re-filing
the appeal.

Suit for specific performance filed by plaintiff Rajiv Kumar



(contesting respondent herein) was decreed by the trial Court on 07.11.2012. Appeal filed by the defendants, which include the sole appellant herein, was dismissed by the first Appellate court on 19.12.2017. The present appeal has been filed on 20.12.2023.

2. It is contended in the application to condone the delay of 437 days that after coming to know about the dismissal of the appeal by the first Appellate Court, the appellant was to collect entire case record and arrange the necessary expenses for filing the appeal, which caused the delay of 437 days.

3. In the application seeking condonation of the delay of 891 days in re-filing the appeal, it is submitted that though the appeal was filed on 31.05.2019 but the same was returned by the Registry with certain objections. The Clerk of the counsel had put the appeal with some admitted briefs due to inadvertence and by the time it was traced, it had resulted in the delay of 891 days.

4. Reasons disclosed in both the applications are absolutely not justifiable. Simply because the appellant was required to collect the entire case record and had to arrange necessary expenses, cannot be a ground to condone the long delay of 437 days. Not only this, neither the name of the Clerk to the counsel is disclosed nor affidavit of any such Clerk is filed to justify the delay of 891 days in re-filing the appeal.

Consequently, both the applications are hereby dismissed.

Main case.:

Although the present appeal deserves to be dismissed being barred by limitation on account of dismissal of the applications for condoning the delay as ordered above but even if the appeal is considered on its own merits, it is found to contain no substance.



2. As per the case of the plaintiff - respondent, Sh. Diwan Chand, the predecessor-in-interest of the defendants (*who include the present appellant*) had agreed to sell the suit property for consideration of ₹1,25,000/- vide an agreement to sell dated 17.10.2000. Entire sale consideration was paid. Possession was delivered to him. It was agreed that sale deed will be executed as and when desired by the plaintiff. It was further claimed by the plaintiff that certain litigation was going on regarding the plot in question titled "*Ranjit vs. HUDA and others*", which was decided in the year 2009. During pendency of the above suit, Diwan Chand died in 2005 and mutation of inheritance was sanctioned in favour of the defendants on 22.11.2010 regarding the plot in question and it is only thereafter that the present suit was filed on 24.12.2010, after serving the prior legal notice upon them.

3. The stand of the defendants (*appellant and proforma respondents*) was denial of the agreement stated to have been executed by their predecessor Sh. Diwan Chand. Necessary issues were framed. Evidence produced by the parties was taken on record. Trial Court decreed the suit by holding that agreement to sell in question was duly proved and that suit was within limitation. The judgment of the trial Court dated 07.11.2013 was affirmed by the first Appellate Court on 19.12.2017.

4. The contention of learned counsel for the appellant is that agreement to sell dated 17.10.2000 was not proved to have been executed by Sh. Diwan Chand and besides, the suit was barred by limitation.

5. It is found by the Courts below that the agreement relied by the plaintiff was proved not only by the testimony of document writer namely Mr. Satnam Dhamija but also by the stamp vendor Desh Raj Leekha, who had sold the stamp for the agreement to Sh. Diwan Chand. Not only this, one of the attesting witnesses namely Mahavir Parshad also proved the execution of the agreement by Diwan Chand. Plaintiff had also



examined a handwriting and fingerprint expert who further proved the signature of Sh. Diwan Chand on the agreement to sell dated 17.10.2000.

6. The contention of counsel for the appellant that attesting witness Mahavir Parshad is the father of the plaintiff and so cannot be believed, has no merit considering the fact that other attesting witness namely Gopi Chand is the real brother of deceased Diwan Chand i.e. uncle of the appellant but he was not examined by appellant to deny the signature of his brother i.e. Diwan Chand on the agreement. Though both the parties had examined fingerprint experts, who supported the case of their respective pay masters but this in itself could not be a ground to discard the agreement, particularly when the same was proved by the testimony of document writer as well as one of the attesting witness, apart from the statement of the plaintiff.

7. Further, no target date was fixed in the agreement for execution of sale deed and as such, suit cannot be held to be time barred.

8. In view of the entire discussion as above, this Court does not find any ground to interfere in the concurrent findings of facts as recorded by the Courts below, which are based upon proper appreciation of evidence on record, in the absence of any illegality or perversity.

9. Consequently the present appeal is hereby dismissed being barred by limitation and also on merits. Miscellaneous application(s), if any, stand disposed of.

**(DEEPAK GUPTA)
JUDGE**

July 16, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No