

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****129****CR-6551-2025 (O&M)
Date of decision: 17.09.2025****Vinod @ Vinod Kumar Drall****...Petitioner(s)****Vs.****Manoj Lalwani****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Abhilaksh Grover, Advocate for the petitioner.

NIDHI GUPTA, J.

Present Civil Revision under Article 227 of Constitution of India has been filed by the plaintiff seeking setting aside of the order dated 10.07.2025 (Annexure P-9) passed by the learned Additional District Judge, Gurugram; whereby the Civil Appeal filed by the plaintiff against the judgment and decree dated 18.12.2015 (Annexure P-3); and against order dated 13.01.2025 (Annexure P-6), have been dismissed on the ground of delay of 3296 days; and non-maintainability of the Review Petition.

2. Brief facts of the case are that the petitioner had filed a Civil Suit dated 20.05.2014 seeking specific performance of Agreement to Sell dated 11.11.2011 (Annexure P-1). The learned Civil Judge (Senior Division) Gurgaon had dismissed the said suit, vide judgment and decree dated 18.12.2015 (Annexure P-3). The petitioner, instead of filing Civil Appeal, had preferred a Review Application against the judgment and



decree dated 18.12.2015, which was dismissed by the learned Civil Judge (Senior Division), Gurugram vide order dated 13.01.2025 (Annexure P-6). Against the above said judgment and decree dated 18.12.2015, and the order dated 13.01.2025, the petitioner had filed Civil Appeal No. 471 dated 24.01.2025 (Annexure P-7) alongwith application for condonation of delay of 3296 days (Annexure P-8); which have been dismissed by the learned Additional District Judge, Gurugram vide the impugned order dated 10.07.2025 (Annexure P-9). Hence, present Civil Revision Petition.

3. Learned counsel for the petitioner argues that the impugned order is unsustainable as the Civil Appeal filed by the petitioner has not been decided at all. It is submitted that while passing the impugned order, learned First Appellate Court has not given any finding on merits; and only the Review Application of the petitioner has been rejected holding that the same is not an appealable order in terms of Order 47 Rule 7(1) CPC. It is submitted that accordingly, the learned First Appellate Court has not entertained the Appeal on merits and has proceeded to pass the impugned order, which is "*incoherent*" in law.

4. It is further submitted that there was no delay in approaching the learned First Appellate Court as the Review Application of the petitioner was dismissed only vide order dated 13.01.2025. Therefore, the Ld. First Appellate Court has denied the Petitioner his statutory right to challenge the judgment and decree dated 18.12.2015 passed by the Ld. Civil Judge (Sr. Division), Gurgaon and to further agitate his issues on



merits. Even no reason is given by the Ld. First Appellate Court to decline the appeal filed by the petitioner against the judgment and decree dated 18.12.2015. In this regard, the impugned order is non-speaking and therefore liable to be set aside.

5. It is further submitted that the impugned order is completely non-speaking *in-as-much* as it only details the procedure to be adopted for challenging the order dismissing the review application. However, as regard the other facts the impugned order is completely silent and liable to be set aside on this ground alone.

6. It is accordingly prayed that present Civil Revision Petition be allowed; and the impugned order be set aside.

7. No other argument is made by Id. counsel for the petitioner. I have heard Id. counsel and perused the case file in detail. I find no merit in the submissions of the petitioner.

8. Against the judgment and decree dated 18.12.2015 (Annexure P-3), petitioner had preferred Review Application before the learned trial court, which is not maintainable. There is nothing on record to show as to why Civil Appeal was not filed by the petitioner in accordance with law before the learned Additional District Judge, Gurugram. The petitioner had preferred Civil Appeal only on 24.01.2025 i.e. after delay of 3296 days. The ostensible reason given by the petitioner for filing the said Appeal with an inordinate and extraordinary delay of 3296 days is that during this time, Review Application of the petitioner was pending before the learned Civil Judge. Needless to say,



Review Application being not maintainable as per law, therefore, the pendency of the same would not constitute sufficient cause to condone such inordinate delay in filing the Civil Appeal. Even no reason is given as to why the said Review Application was not withdrawn; or as to what forbade the petitioner from filing Civil Appeal during the pendency of the said Review Application. If the petitioner has chosen to take recourse to incorrect remedy not available under law, the same cannot be held in favour of the petitioner. Petitioner cannot be permitted to take advantage of his own wrongs. Thus, contention of the petitioner that Civil Appeal has not been decided on merits and has been dismissed merely on the ground of delay, is meritless. Even no cogent reasons have been given for delay in filing the Civil Appeal.

9. Moreover, on a Court query, learned counsel for the petitioner has admitted that the petitioner had made no statement before the learned First Appellate Court that Review Application is not pressed on merits, and that the learned First Appellate Court should consider only the Civil Appeal filed by the petitioner.

10. Reasoning of the learned First Appellate Court contained in paras 7 and para 8 of the impugned order dated 10.07.2025 are as under:

“7. The said review petition was filed on 15.02.2016 and was decided on 13.01.2025. The present appeal is filed with the prayer to set aside the judgment and decree-dated 18.12.2015 and order of review passed by the learned trial court. The judgment and decree-dated 18.12.2015 is



appealable under Section 96, Order 41 Rule 1 CPC and the order dated 13.01.2025 i.e. rejection order is not appealable as per order 47 Rule 7(1) CPC which reads as under:-

"An order of the Court rejecting the application shall not be appealable; but an order granting an application may be objected to at once by an appeal from the order granting the application or in an appeal from the decree or order finally passed or made in the suit."

8. *The present application of review has been rejected vide order dated 13.01.2025 so the said order is not appealable as per the statutory provision of CPC. The appellant had knowingly chose to file review application under Section 114 of CPC instead of filing appeal under Section 96 Order 43 Rule 1 CPC against the impugned judgment and decree-dated 18.12.2015. Section 114 CPC review states that "Subject as aforesaid, any person considering himself aggrieved---- (a) by a decree or order from which an appeal is allowed by this Code but from which no appeal has been preferred; (b) by a decree or order from which no appeal is allowed by this Code, or (c) by a decision on a reference from a Court of Small Causes may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit." Thus, the period of delay of 3296 days cannot be condoned in filing the appeal against the order dated 18.12.2015 on the ground that he has consumed time in review petition. As per scheme of Statute, against the impugned judgment and decree in a suit, appeal lies to Superior Courts and in case the aggrieved party goes for review of judgment and decree under Section 114 CPC and in*



case of rejection of his review petition, no appeal lies against that order.”

11. Therefore, impugned order has been correctly passed dismissing the application/Appeal of the petitioner on the ground of non-maintainability as well as delay.

12. In view of the above facts, no ground is made out to interfere in the order dated 10.07.2025 (Annexure P-9). Hence, the present Civil Revision Petition stands **dismissed**.

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

17.09.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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