

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Regular Second Appeal No. 3787 of 2004 (O&M)  
Date of decision: 16.7.2015

**Manjit Kaur**

**.. Appellant**

**v.**

**Rajinder Singh and others**

**.. Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Umesh Narang, Advocate for the appellant.

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Rajesh Bindal J.

One of the defendants is before this court impugning the judgments and decrees of both the courts below, whereby the counter-claim filed by her in a suit for permanent injunction filed by respondents No. 1 and 2 was dismissed by both the courts below.

In the case in hand, respondents No. 1 and 2-plaintiffs filed a suit for permanent injunction restraining the defendants from taking custody of truck bearing No. CHW-4724 from them. They claimed themselves to be the owners of the truck. It was pleaded that on 9.5.1996, the plaintiffs, through their attorney-Harnam Singh, had agreed to sell the truck to defendant No. 1 for a sum of ₹ 2,30,000/-. ₹ 50,000/- were paid by defendant No. 1 as earnest money. The balance amount was to be paid upto 25.6.1996. On 15.5.1996, defendant No. 1 also paid another sum of ₹ 60,000/-. The plaintiffs handed over the custody of the truck but kept the registration certificate with them. It was pleaded that as defendant No. 1 failed to pay the balance amount, she forfeited the right to purchase the truck. The plaintiffs were always ready and willing to perform their part of the agreement. Defendant No. 1 threatened to take the custody of the truck

with the help of police, hence, they filed the suit.

Defendant No. 1 in her written statement denied the ownership of the plaintiffs over the truck. She stated that Harnam Singh sold the truck to her as owner and not attorney of the plaintiffs. Out of the sale consideration, ₹ 1,18,500/- were paid by defendant No. 1 to Harnam Singh. On the stipulated date, i.e., 25.6.1996, she along with balance sale consideration and other expenses reached the office of the Registering Authority to get the truck transferred but Harnam Singh did not turn up to perform his part of the agreement. In addition, defendant No. 1-appellant filed counter-claim praying for custody of the truck and also for transfer of the registration in her name.

The trial court dismissed the suit as well as the counter-claim. In separate appeals filed by both the parties, the lower appellate court upheld the judgment and decree of the trial court. Defendant No. 1 is before this court impugning the dismissal of her counter-claim.

While dealing with counter-claim, vide which the appellant had sought custody of the truck, she claimed that custody was taken by the plaintiffs after filing of the suit. She could not specify the actual date. Had the truck been taken from her custody forcibly, she would have certainly filed a complaint with any authority, but nothing was done. DW5- Nagar Singh, a witness produced by her, did not support her version. In his cross-examination, he admitted that possession of the truck was taken from her 4-5 months prior to filing of the suit. That means, the appellant had not come to the court with clean hands by providing correct version. Further, from the evidence produced on record by the defendant, it was established beyond doubt that she did not have sufficient means to pay the balance sale consideration and get the truck transferred in her name. The plea that the appellant had appeared in the office of District Transport Officer to get the truck transferred in her name on the date fixed also fell flat, as she did not file any suit for specific performance or even refund of earnest money given by her immediately after the date fixed for transfer of the vehicle. It was under these circumstances that both the courts below found that the appellant was not entitled to any relief whatsoever in the counter-claim filed

by her. The findings cannot be said to be perverse.

No substantial question of law arises in the present appeal. The same is, accordingly, dismissed.

(Rajesh Bindal)  
Judge

16.7.2015  
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