

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 233 of 2011(O&M)
Date of decision : February 4 , 2015

Surjit Singh

..... Appellant

Versus

Mohinder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Namit Gautam, Advocate
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

This Regular Second Appeal is at the instance of the appellant-plaintiff directed against the judgment and decree of dated 29.9.2008 of the trial court whereby the suit for possession by way of specific performance of agreement to sell dated 20.1.2003 has been dismissed, however alternative relief of refund of ₹60,000/- along with interest at the rate of 6% per annum from the date when the amount become due till realization had been partly decreed. The appeal filed against the aforementioned judgment and decree was also dismissed.

Learned counsel for the appellant-plaintiff in support of his grounds submits that the lower appellate court has erroneously

and perversely observed that the appellant-plaintiff had not produced any application/affidavit as to whether he marked his presence before the Sub Registrar or not. The impugned judgment and decree is null and void and therefore a substantial question of law arise for adjudication of this Court.

I am afraid the aforementioned argument do not have any substance, much less foundation in view of the fact that the appellant-plaintiff failed to prove the ingredients of Section 16-C of the Specific Relief Act, 1963. It is a settled proposition of law that in the absence of specific pleadings in consonance with Section 16-C of the Act the suit of the vendee for specific performance is not maintainable.

Both the Courts below have rendered a finding of fact and law by observing that the appellant-plaintiff failed to prove the essential ingredients of readiness and willingness. I do not find any illegality or perversity in the aforementioned orders of the courts below.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 4, 2015
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