

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

R.S.A. No.2873 of 2011 (O&M)

Date of decision: 20.3.2015

Gurjant Singh

... Appellant

Versus

Rajinder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.C.L.Verma, Advocate
for the appellant.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

This is a defendant's appeal in a suit for specific performance brought against him on the strength of two sale agreements entered between him and the plaintiff in the January, 2000 and June, 2000. Both the Courts have found as a fact that the contracts have come into existence between the parties and the defendant was not within his right to back out of both the deals, one relating to agricultural land and one relating to building in *Abadi deh*. The ingredients of grant of relief of specific performance having been made out in this case, both the Courts below have found it fit to decree the suit with possession of the two corpus properties. The defence that the defendant was not owner of the building in *Abadi Deh* has not been rebutted by evidence even though the appellant would have had an opportunity via

issue No.1 to set up his defence as he deems fit through oral and documentary evidence but that was not the case. Today he pleads that one Smt.Gurdev Kaur is in possession of the house, of which, she has no ownership rights. The defendant knew from the very beginning the case set up against him and what he was required to meet and, therefore, it is too late in the day for him now to ask the trial Court, appellate Court and this Court that he may be allowed to lead additional evidence which would spark off a fresh trial on an issue which he could easily have claimed from the trial Court at the appropriate stage but did not. It may be noted that Smt.Gurdev Kaur who was present in Court admitted that she has filed a suit against the respondent-vendee with respect to the house with respect to the sale agreement of June, 2000 and that suit is pending. Without making any comment on that suit, I would not link the fate of this case with the suit brought by Smt.Gurdev Kaur.

In the considered view of this Court, no question of law, muchless a substantial one arises for determination in this second appeal and, therefore, the appeal is dismissed together with the applications filed.

(RAJIV NARAIN RAINA)
JUDGE

March 20, 2015

Paritosh Kumar