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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1095 of 2012 (O&M)
Decided on : November 26, 2015

SATBIR

....Appellant

VERSUS

KAPTAN

....Respondent

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Lather, Advocate
for the appellant.

Mr. S.K. Verma, Advocate
for the respondent.

AMIT RAWAL, J (ORAL)

Appellant-defendant is in regular second appeal against the concurrent findings of fact whereby the suit for recovery of Rs.1,50,000/- along with interest @ 12% has been decreed.

Learned counsel appearing on behalf of the appellant submits that the respondent-plaintiff sought the recovery of Rs.1,75,000/- on the basis of agreement to sell dated 28.03.2006 (Exhibit P-1) vide which the vendor-defendant had agreed to sell his land referred to herein. He submits that a simplicitor suit for recovery in the absence of relief for specific performance was not maintainable much less, even the agreement to sell was not registered and these facts have not been noticed by the

Courts below. The agreement to sell does not mention about the particulars of the land agreed to be sold. Thus, there is illegality and perversity.

Mr. Verma, learned counsel appearing on behalf of respondent submits that the agreement to sell has been proved through testimony of two witnesses and as well as the handwriting expert who unequivocally stated that the appellant-defendant had appended his signatures on the agreement to sell and thus prays that there is no illegality and perversity, much less no substantial question of law arises accordingly and appeal be dismissed with exemplary costs.

I have heard learned counsel for the parties and appraised paper book.

As per record, the respondent-plaintiff has proved the agreement to sell through the testimony of aforesaid two witnesses. The appellant-defendant has failed to disprove his signatures on the agreement to sell by examining any expert, much less, not able to cause dent in cross-examination of handwriting expert examined by plaintiff.

There is another aspect of the matter. The plaintiff during interregnum ascertained that the defendant was not owner of the property agreed to be sold. In essence, the respondent-plaintiff was left with no other opportunity but to seek refund of the earnest money and suitably been compensated with interest @ 12%.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned

judgment and decree of the appellate Court.

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

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

November 26, 2015
rajneesh

(AMIT RAWAL)
JUDGE