

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1492 of 2012 (O&M)
Date of Decision: May 15, 2015

Sarwan Singh

...Appellant

Versus

Joginder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.G.S.Nagra, Advocate
for the appellant.

Mr.Manmeet Singh Rana, Advocate
for the respondents.

INDERJIT SINGH, J.

Appellant Sarwan Singh has filed this regular second appeal against Joginder Singh, Charanjit Singh, Dilbagh Singh and Harjit Singh respondents, challenging the impugned judgment and decree dated 07.09.2006 passed by learned Addl. Civil Judge (Senior Division), Garhshankar, vide which the suit filed by Sucha Singh was decreed and also the judgment and decree dated 08.11.2011 passed by Addl. District Judge, Hoshiarpur, vide which the appeal filed by Sarwan Singh was dismissed.

The brief facts of the case are that Sucha Singh filed a suit for specific performance against Sarwan Singh, Dilbagh Singh and Harjit Singh for directing defendant No.1 Sarwan Singh to specifically

perform his part of contract agreement to sell dated 17.11.1998 or in the alternative, suit for recovery of ₹40,000/-. It is stated in the plaint that defendant Sarwan Singh was owner in possession of land measuring 4 kanal 5 marlas. On 17.11.1998, he entered into agreement to sell of land measuring 4 kanal 5 marlas for ₹69,060/- and received ₹20000/- as earnest money from plaintiff Sucha Singh (now deceased) and agreed to execute the sale deed on or by 15.01.1999. On 07.01.1999, defendant No.1 Sarwan Singh on the request of Sucha Singh came to the Tehsil compound to execute the sale deed in favour of the plaintiff and also purchased stamp papers of ₹6000/- by receiving the amount from Sucha Singh but while the Deed Writer was scribing the sale deed, defendant No.1 left the place and also took away the stamp papers with him.

On the other hand, the case of defendant No.1 Sarwan Singh is that he is owner in possession of the suit property. He never entered into any agreement dated 17.11.1998 and has not received ₹20,000/- as earnest money. It is further stated that Sarwan Singh is handicapped by his leg and due to this, he had to settle in the village and plaintiff Sucha Singh approached him with the advice that he could take the benefit of being handicapped person to avail loan for poultry farm and Sucha Singh obtained signatures of Sarwan Singh on blank papers in order to fulfill the departmental requirements.

On the basis of the evidence on record, learned Addl. Civil Judge (Senior Division) Garhshankar, decreed the suit of the plaintiff Sucha Singh for specific performance. The Court held that execution

of the agreement has been duly proved by the plaintiff. Plaintiff brought PW-5 Kewal Singh, attesting witness to the agreement to sell Ex.P3. PW-4 Kamaljit Singh, who scribed the agreement to sell deposed regarding scribing of the agreement, which was read over to the parties and both the parties after admitting the contents put their signatures on the agreement, as well as attesting witness put their signatures on it. One of the LR of Sucha Singh also appeared in the witness box.

Further, I find that in the written statement, defendant Sarwan Singh has indirectly admitted his signatures on the alleged document. The defendant has not got examined any Handwriting and Finger Print Expert to show that alleged agreement to sell does not bear his signatures. Further, the Court held that Sarwan Singh is 30/35 years whereas Sucha Singh is 70-80 years old. The Court also held that no document has been brought on record to show that defendant Sarwan Singh suffered injuries in the accident or that he is handicap. The Court further reached to the conclusion that as per the evidence, defendant Sarwan Singh purchased stamp papers worth ₹6000/- for the execution of sale deed as deposed by Kewal Krishan Bhalla, Cashier, Treasury Office, which means that on 17.11.1998, defendant Sarwan Singh was present in the Tehsil Complex.

The findings given by the Courts below are correct and as per evidence. The execution of agreement to sell has been duly proved. The payment of earnest money has also been proved. It is also proved by the plaintiff by bringing cogent evidence that he was

ready and willing and still ready and willing to perform his part of the contract. There is nothing on the record to show that both the Courts below have misread the evidence.

The findings of facts given by the Courts below are concurrent. The judgments and decrees passed by the Courts below are correct, as per law and do not require any interference from this Court. No substantial question of law arises in this present appeal.

Therefore, finding no merit in the present regular second appeal, the same is dismissed.

May 15, 2015
Vgulati

(INDERJIT SINGH)
JUDGE