

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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*C.M. No. 5962-C of 2012 and
RSA No. 2143 of 2012 (O&M)*

Date of decision: 06.11.2015

Joginder Singh

....APPELLANT

VERSUS

Mukhtiar Singh

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. T.P.S.Tung, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

In this appeal, the challenge is to the judgment and decree passed by the Civil Judge (Senior Division), Ferozepur dated 31.08.2010, by which the suit for specific performance of an agreement dated 10.02.2005 entered into between the appellant-defendant and the respondent-plaintiff stands decreed and the appeal preferred against the same has been dismissed by the District Judge, Ferozepur on 09.02.2012.

2. It is the contention of the learned counsel for the appellant that the respondent is the father of the owner of the firm M/s Guru Kalgidhar Commission Agent, Shehzadi, which is owned by his sons, with whom the appellant-defendant had a close relationship and he was commission agent and the crop was being sold by the appellant-defendant to them. On blank papers his signatures were obtained on the pretext that he is to be the attesting witness of an agreement to sell which was to be entered into but the signatures on the blank papers have been illegally used for the

preparation of the agreement to sell dated 10.02.2005, which is a forged and fabricated document, which cannot be made the basis for granting a decree, as has been prayed by the respondent-plaintiff. His assertion is that mere perusal of the agreement to sell would show that typing on the said agreement to sell has been made in such a manner that the signatures of the appellant-defendant have been adjusted as it was not coming in the natural flow of the typing. He, thus, contends that the agreement to sell itself being not a genuine document could not have resulted in the decree of the suit for specific performance. Prayer has, thus, been made for setting aside the impugned judgments and for dismissing the suit of the respondent-plaintiff.

3. I have considered the submissions made by the learned counsel for the appellant and with his able assistance, have gone through the impugned judgments passed by the Courts below as also the photocopy of the agreement to sell, which has been produced by the counsel in Court. On perusal of the said photocopy of the agreement to sell dated 10.02.2005, the assertion, as made by the learned counsel for the appellant, does not appear to be correct as the signatures on the said document clearly indicate that there was no effort made for making such an adjustment, as has been asserted by the counsel.

4. The findings, which have been recorded by the Courts below, clearly establish that the execution of the agreement to sell has been duly proved apart from the other legal requirements such as the intention and readiness of the respondent-plaintiff to perform his part of contract. There is no illegality in the judgments passed by the Courts below, which would call for interference by this Court.

5. There being concurrent findings recorded by the Courts below

on the facts of the case, which have been found to be based on proper appreciation of the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

6. In view of the above, finding no merit in the present appeal, the same stands dismissed.

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In view of the dismissal of the main appeal, no separate orders are required to be passed in this application for stay and, therefore, the same stand dismissed.

November 06, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE