

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**RSA No.2443 of 2012 (O&M)
Date of decision: 28.10.2015**

Narender Kumar

... Appellant

Vs.

Krishana Devi

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Ashish Gupta, Advocate, for
Mr. Vikram Singh, Advocate
for the appellant.

Mr. Pankaj Middha, Advocate
for the respondent.

AMIT RAWAL J. (Oral)

Appellant-defendant is in Regular Second Appeal against the judgments and decrees of the Courts below, whereby, the suit for possession of the house/suit property, has been decreed.

Mr. Ashish Gupta, learned counsel appearing on behalf of the appellant-defendant submits that respondent-plaintiff claimed the possession of the house/suit property on the basis of the ownership acquired through sale deed dated 25.01.2001. However, due to urgent need of money, respondent-plaintiff entered into an agreement to sell dated 28.03.2003 for a valuable consideration and

entire chunk of money had been paid except for a sum of ₹ 5,000/-. The suit for possession was instituted in the year 2008. Both the Courts below have committed illegality and perversity in decreeing the suit by holding that agreement to sell dated 28.03.2003 was unregistered, therefore, it would not confer title upon the defendant. Thus, substantial questions of law arise to be determined by this Court.

On the other hand, Mr. Pankaj Middha, learned counsel appearing on behalf of the respondent-plaintiff supported the findings rendered by both the Courts below.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of the Courts below.

On receipt of summons of the suit for possession, appellant-defendant had option to file the counter claim for specific performance of the agreement to sell or to file independent suit, since time was not essence to seek specific performance of the agreement to sell. Even the appellant has not sought recovery of consideration alleged to have been paid. Once the respondent-plaintiff has been able to prove title, much less, possession with the defendant, remedy, if any was to seek possession, rightly so it has been availed of. Even otherwise agreement to sell does not confer any title.

Both the Courts below have rendered findings based upon appreciation of oral and documentary evidence, therefore, I do

not intend to differ with the same. Thus, no substantial questions of law arise to be adjudicated by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 28, 2015
savita