

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5137 of 2012(O&M)
Date of decision :February 16, 2015

Sahi Ram

..... Appellant

Versus

Jagdish Prshad

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. J. P. Sharma, Advocate
for the appellant.

Ms. Pratibha Yadav, Advocate
for the respondent.

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

Amit Rawal, J (oral).

This Regular Second Appeal at the instance of the appellant-defendant is directed against the judgment and decree of both the courts below whereby the suit for specific performance of agreement to sell dated 13.6.2001 in respect of land measuring 11 Kanal 13 Marla filed by the respondent-plaintiff has been decreed and the appellant-defendant has been directed to execute the sale deed within a period of 90 days in favour of the respondent-plaintiff and the respondent-plaintiff had also been directed to deposit the balance sale consideration in favour of the appellant-defendant within a period of 30 days.

Mr. J. P. Sharma, learned counsel appearing on

behalf of the appellant submits that the respondent-plaintiff was not ready and willing to perform his part of the agreement and the trial court has committed illegality and perversity in exercising jurisdiction under Section 20 of the Specific Relief Act. The respondent-plaintiff did not have liquid cash in order to perform his part of the agreement therefore the suit of the respondent-plaintiff was liable to be dismissed.

Ms. Pratibha Yadav, learned counsel appearing on behalf of the respondent-plaintiff submits that the finding rendered by both the courts below do not suffer from any illegality and perversity and the discretion under Section 20 of the Specific Relief Act has been rightly exercised by the trial court. The lower appellate court has also discharged the obligation being the last court of fact and law.

I have heard learned counsel for the parties and I am of the view that the appeal sans merit for the following reasons. That the respondent-plaintiff has proved not only execution of the agreement to sell dated 13.6.2001 but advancement of payment of earnest money of ₹62,000/- against the total sale consideration of ₹1,80,000/- in respect of land measuring 11 Kanals 13 Marlas.

The appellant-defendant did not appear before the office of Sub Registrar for registration and execution of the sale deed. The respondent-plaintiff, with promptitude, instituted the suit on 22.7.2002. The respondent-plaintiff has not lacked in performance of his part of the agreement. He had proved the readiness and willingness as enshrined under Section 16-C of the Specific Relief

Act.

The appellant-defendant has failed to give any evidence, much less cogent evidence in support of his submissions. In the absence of any proof or evidence. The respondent-plaintiff has discharged the onus with regard to the execution of the agreement to sell as well as readiness and willingness.

No fault can be found with the finding rendered by both the Courts below in exercising the discretion under Section 20 of the Specific Relief Act. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

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

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 16, 2015
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