

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1670 of 2013(O&M)
Date of Decision.15.12.2015

Baldev Singh

.....Appellant

Vs.

Nachhattar Singh and another

.....Respondents

Present: Mr. Jai Bhagwan, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The plaintiff who filed the suit for specific performance of enforcement of agreement dated 14.10.2002 in respect of 6 bighas 5 biswas of land from the 1st defendant was granted a decree only in respect of the advance money which he had paid. The relief was declined on view of the fact that that 2nd defendant had purchased the property subsequent to the plaintiff's agreement on 12.12.2002 but his own purchase was pursuant to anterior agreement of sale in his favour on 16.05.2002. The Court noticed that the 1st defendant was originally the owner of 16 bighas 3 biswas and he had sold on 4.5.1999, 12 bighas 10 biswas of land to the 2nd defendant and retained to himself only 3 bighas 13 biswas. The Court found that the vendor was not even entitled to the extent of the property which he had offered to sell and in any event that property had been sold pursuant to an agreement of sale executed anterior in point of time to the 2nd defendant. The Court found,

therefore, that the 1st defendant was not competent to execute a sale in respect of the whole of the property and the appropriate remedy would be not to grant a specific relief in respect of the agreement in his favour but only to provide for the alternative relief.

2. The Court's discretion has been properly exercised in situation where the vendor was not even entitled to the whole of the property and there was an intervention of interest of the 2nd defendant who had held an agreement of sale earlier in point of time to the plaintiff. There is no error in the judgments of the Courts below for intervention. The second appeal is dismissed as involving no substantial question of law.

(K. KANNAN)
JUDGE

December 15, 2015
Pankaj*