

In the High Court of Punjab and Haryana at Chandigarh

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CM Nos.5202-C, 5203-C and 5204-C of 2013

and

R.S.A. No.1954 of 2013 (O&M)

.....

Date of decision:20.5.2015

Baljit Singh

.....Appellant

v.

Surinder Kaur and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. S.S. Rang, Advocate for the appellant.

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Inderjit Singh, J.

CM No.5204-C of 2013:

For the reasons mentioned in the civil miscellaneous application, exemption from filing the certified copy of judgment and decree dated 22.2.2005 is allowed subject to all just exceptions.

The civil miscellaneous application stands disposed of.

CM No.5203-C of 2013:

For the reasons mentioned in the civil miscellaneous application, the delay of 308 days in re-filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

CM No.5202-C of 2013:

For the reasons mentioned in the civil miscellaneous application, the delay of 9 days in filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

R.S.A. No.1954 of 2013 (O&M):

This regular second appeal has been filed by Baljit Singh-appellant/plaintiff against Surinder Kaur etc.-respondents/defendants aggrieved against the impugned judgment and decree dated 22.2.2005 passed by the learned Civil Judge (Senior Division), Ludhiana, vide which the suit filed by the plaintiff against Surinder Kaur etc.-defendants for specific performance and for permanent injunction was dismissed and also the impugned judgment and decree dated 11.1.2012 passed by the learned Additional District Judge, Ludhiana, vide which the appeal filed by the appellant has been dismissed.

The brief facts of the case are that the plaintiff and defendant No.1 are real brother and sister. Defendant Nos.2 and 3 are sons of defendant No.1, defendant No.4 is alleged purchaser of the suit property. Defendant No.1 purchased the suit property vide sale deed dated 3.3.1983 and she agreed to sell the same to the plaintiff vide some agreement to sell the property on 25.2.1985 for ₹70,000/- in lump-sum and ₹5,000/- were paid by the plaintiff to defendant No.1 in cash and the remaining amount of ₹65,000/- had been paid by the plaintiff to defendant No.1 in easy instalments. The plaintiff paid a sum of ₹1,51,600/- in total in instalments along with interest. The plaintiff requested defendant No.1 in the first week of June 1997 to get the sale deed executed and registered in his favour, but

she failed to do so.

Notice was given to the defendants, but they did not appear before the trial Court and they were proceeded against ex parte. In his ex parte evidence, the plaintiff examined Balwant Singh as PW-1, Balbir Singh as PW-2, Rajinder Singh as PW-3 and Baljit Singh-plaintiff himself appeared in the witness box as PW-4.

The learned Civil Judge (Senior Division), Ludhiana, vide judgment and decree dated 22.2.2005 dismissed the suit after appreciating the evidence. The appeal filed by the plaintiff before the learned District Judge was also dismissed by the learned Additional District Judge, Ludhiana. Aggrieved against the judgments and decrees passed by the Courts below, the present regular second appeal has been filed by the appellant-plaintiff.

Learned counsel for the appellant argued as per version given in the plaint and stated that his evidence remained unrebutted and unchallenged.

After hearing learned counsel for the appellant and after going through the record, I find that as per the case of the plaintiff, the agreement to sell is dated 25.2.1985 and the suit had been filed on 26.8.1998 after about 13½ years. There is nothing in the plaint as to what date was fixed for execution of the sale deed. Otherwise also, there is no written agreement to sell the property of defendant No.1. It is alleged that she orally agreed to do so. There is no document to show payment of ₹5,000/- as earnest money to defendant No.1. Again there is no cogent evidence on

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record to show that the amount as alleged had been paid. The agreement to sell was for ₹70,000/- and as per the plaint the plaintiff had paid ₹1,51,600/- in instalments. The version of the plaintiff cannot be believed. There is no cogent evidence on record to prove that defendant No.1 agreed to sell the property in dispute to the plaintiff. There is no receipt regarding payment of ₹1,51,600/-. The mere oral statements without any cogent documentary evidence on record cannot be believed. Otherwise also, the suit of the plaintiff is time barred. Both the Courts below have rightly dismissed the suit of the plaintiff by giving concurrent findings and after appreciating the evidence in right perspective. There is nothing on record that any evidence has been misread by the Courts below. The impugned judgments and decrees passed by the Courts below do not require any interference from this Court and the same are upheld. Otherwise also, no substantial question of law arises in this regular second appeal.

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

May 20, 2015.

(Inderjit Singh)
Judge

hsp