

**109 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RSA No. 2463 of 2013 (O&M)
Decided on : 31.08.2015**

Sajjan Singh

...Appellant

Versus

Arjan Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Ranjit Sharma, Advocate,
for the appellant.

K. C. PURI, J.

The unsuccessful plaintiff has directed this appeal against the judgment and decree dated 13.2.2013 passed by Sh. Baljinder Singh, Additional District Judge, Tarn Taran vide which the appeal preferred by the plaintiff against the judgment and decree dated 9.4.2011 passed by Sh. Mandeep Mittal, Civil Judge (Junior Division), Patti was dismissed.

The plaintiff filed suit for declaration pleading therein that he is owner of Ford tractor No.3630 green colour bearing registration No.46-B-945 Model 2000 Chasis No.202844, Engine No.553934 along with reapers for making toori and trolley with consequential relief of permanent injunction. It was pleaded that on 20.1.2013 the defendant entered into an agreement to sell the aforesaid

tractor to the plaintiff along with accessories for a sale consideration of Rs.4 lacs. The entire amount was paid on the same day and the plaintiff got the possession of the tractor. It was agreed that defendant would return the loan amount which was taken by defendant by mortgaging that tractor and then the same would be transferred in favour of plaintiff. In case of default, the defendant was liable to pay Rs.8 lacs to the plaintiff. On 15.1.2014 the tractor of the plaintiff was stolen by the defendant. FIR was got registered against the defendant and the tractor was handed over to the defendant on superdari as RC was in his name.

Upon notice, the defendant appeared and filed written statement taking preliminary objections of maintainability. It was pleaded that the plaintiff has not disclosed the previous litigation. The agreement to sell was forged and fictitious document. In fact, defendant took loan of Rs. 3 lacs from State Bank of India against his land and defendant is making payment of the same from his pension. The tractor was taken by the plaintiff for carrying crops to Mandi. The RC of that tractor was found missing. When he got that tractor from plaintiff, he lodged DDR to that effect. Rest of the allegations were denied.

The issues were framed and both the parties led their respective evidence. Learned trial Court vide judgment and decree dated 9.4.2011 dismissed the suit of the plaintiff.

Feeling dis-satisfied with the aforesaid judgment and decree dated 9.4.2011 the plaintiff filed first appeal and the same was dismissed by the first appellate Court on 13.2.2013.

Still feeling dis-satisfied with the aforesaid judgments and decrees, the plaintiff-appellant has directed this regular second appeal.

Learned counsel for the appellant, in para no.10 of the grounds of appeal has mentioned that following substantial questions of law have arisen in the instant appeal :-

- 1) Whether a decree of permanent injunction passed by a Court which has no jurisdiction to entertain the said suit can be taken into consideration while deciding the present case?
- 2) Whether concealment of facts by the respondent of entering into an agreement in suit of permanent injunction to obtain a decree is misleading and mischievous act of respondent ?
- 3) Whether duly executed agreement signed by the respondent when its marginal witnesses fully supported the agreement can be disbelieved ?

I have heard learned counsel for the appellant and have gone through the record of the case.

The dispute is in respect of tractor and trolley in question. The claim of the plaintiff is based on the agreement. In earlier litigation between the parties, the plaintiff failed and another spell of litigation has been initiated by him. The tractor has never been transferred in the name of plaintiff. There is a finding of fact recorded by both the Courts below that tractor was to be transferred after clearing the amount of loan but the loan has not been cleared. So, I have no

hesitation in holding that no substantial question of law has arisen in the present regular second appeal. Consequently, the appeal is without any merit and the same stands dismissed.

31.8.2015
SN

(K.C.PURI)
JUDGE