

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision : 29.05.2015

1. CM No.1174-C of 2015 in/and
RSA No.3049 of 2013

M/s Ansal Properties & Industries Pvt. Ltd.

....Appellant

versus

Shashi Bhushan and others

...Respondents

2. RSA No.3171 of 2013 (O&M)

K.L. Chopra & Radhika International and others

....Appellants

versus

Shashi Bhushan and others

...Respondents

3. RSA No.4846 of 2013 (O&M)
Prem Shanker Syngal

....Appellant

versus

Shashi Bhushan and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Amir Singh Pasrich, Advocate,
with Mr. Manav Shukla, Advocate,
for the non applicant-appellant (in RSA No.3049 of 2013).

Mr. Sourabh Goel, Advocate,
for the appellants (in RSA No.3171 of 2013).

Mr. Arun Jain, Senior Advocate,
with Mr. Amit Jain, Advocate,
for the appellant (in RSA No.4846 of 2013).

Mr. M.L. Sarin, Senior Advocate,
with Mr. Nitin Sarin, Advocate,
for applicant-respondent No.1.

RITU BAHRI, J.

This judgment shall dispose of RSA Nos.3049 of 2013, 3171 of 2013 and 4846 of 2013 as common questions of law and facts are involved in all the appeals being arisen out of same judgment. For reference, facts are being taken from RSA No.3049 of 2013.

M/s Ansal Properties and Industries Pvt. Ltd.-appellant has come up in regular second appeal against the judgment and decree dated 16.04.2013 passed by the Additional District Judge, Gurgaon, whereby suit filed by plaintiff-Shashi Bhushan (respondent N.1) for specific performance of a contract dated 08.07.1985 (Annexure P-1) has been decreed and the defendants have been directed to deliver vacant possession of 8 plots in favour of the plaintiff after removing the structure, if any, raised upon the said plots at their own costs and expenses.

The trial Court vide judgment and decree dated 06.11.2004 had dismissed the suit of the plaintiff for specific performance of the contract dated 08.07.1985. It was held that he was not entitled to decree for recovery of Rs.7,73,884/-. However, the plaintiff was held entitled to decree for damages of Rs.15,55,244/- with costs and interest at the rate of 10% per annum. Pursuant to the judgment passed by the trial Court, the appellant-defendant No.1 had deposited approximately Rs.38 lacs before the lower Court.

The lower appellate Court, in para No.28 of the judgment, has observed that plot No.B734 of 420 sq. meters did not exist in the layout plan. Hence, no specific performance of this non existing plot could be allowed. Ultimately, the lower appellate Court decreed the suit of the

