

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

RSA No.1128 of 2015 (O&M)

Date of Decision: December 04, 2015

Mohinder Singh

.... Appellant

vs.

Smt. Chandrawati and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Pankaj Maini, Advocate for the appellant.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

Cms-3284-C and 3285-C2015

There is delay of 20 days in refiling and 6 days in filing the present appeal.

For the reasons mentioned in the applications, supported by affidavits, delay of 20 days in refiling and 6 days in filing the present appeal is condoned, subject to all just exception.

Applications stand disposed of.

RSA-1128-2015

Impugned in the present regular second appeal is the judgment and decree dated 12.08.2014 passed by learned Addl. District Judge, Fatehabad, affirming the judgment and decree dated 18.10.2012 passed by learned Civil Judge (Sr. Divn.), Fatehabad, vide which the suit of the plaintiff for permanent injunction was dismissed.

The plaintiffs claimed that Lachhman Dass, predecessor-in-interest of defendant Nos.1 to 4 agreed to sell his land measuring 41 kanals, 14 marlas to Iqbal Singh, predecessor-in-interest of the plaintiffs @ ₹2,100/- per acre. Vide agreement to sell dated 25.01.1978, ₹4,000/- were paid as earnest money. The date for execution and registration of the sale deed was fixed for 31.06.1978. Later on, with mutual consent, the date of execution of the sale deed was extended to 10.08.1978, vide extension dated 04.07.1978. At that time, another sum of ₹6,000/- were paid to Lachhman Dass and the possession of the suit land was delivered to Iqbal Singh, predecessor-in-interest of the plaintiffs. Thereafter, Iqbal Singh died on 05.09.2004 and the plaintiffs succeeded him. The plaintiffs claimed that they are owner in possession of the suit land.

The defendants on the other hand, termed the agreement to be false, fictitious and forged.

It is further averred that the plaintiffs kept mum for 27-28 years. The plaintiffs did not sought the specific performance of the agreement. Since the suit was for simple injunction, therefore, the lower court after recording the evidence, came to the conclusion that the plaintiffs had failed to prove the possession and consequently, the injunction was refused. The findings were upheld in appeal.

I have heard learned counsel for the appellants and have also carefully gone through the case file.

The fact whether the plaintiffs or the defendants are in possession of the suit land, has been determined by both the courts

below. The findings of the facts have been recorded by both the courts below after considering the oral as well as documentary evidence.

The plaintiffs claimed that they are in possession of the suit land vide agreement to sell dated 25.01.1978. However, no effort has been made to seek specific performance of the agreement to sell. Now the said remedy has become time barred. Therefore, on equity also, the plaintiffs cannot be granted injunction. Thus, there is no ground to interfere in the impugned judgment and decree. There are concurrent findings of both the courts below. No substantial question of law arises in the present appeal.

Hence, the present regular second appeal stands dismissed.

December 04, 2015
sarita

(KULDIP SINGH)
JUDGE