

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

RSA No. 1173 of 2015 (O&M)

Date of decision: September 8, 2015

Balkar Singh

...Appellant

Versus

Ranjodh Singh

...Respondent

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?**

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

K. KANNAN, J. (Oral)

CM No. 3373 C of 2015

For the reasons stated in the application, delay in filing the appeal is condoned.

Main case

1. The plaintiff's suit for specific performance was decreed. The defendant preferred an appeal which was dismissed by the lower appellate court. The defendant who lost in both the courts is the appellant before this court.

2. The case, as projected by the counsel, hinges on a singular consideration of whether the plaintiff was present at the Sub-Registrar's office on the date before when the document was required to be registered. The agreement had been executed on 17.6.2008 for a consideration of Rs. 24 lakhs and admittedly an amount of Rs. 4 lakhs had been paid as advance.

The plaintiff would state that he went to the Sub-Registrar's office at Ajnala on 31.12.2008 since 30.12.2008 was a holiday. The defendant contended that he went to the Sub-Registrar's office at Lopoke and finding it closed went there the next date on 31.12.2008. The plaintiff was not present and evidently he was not ready and willing to purchase the property, for, he did not have the requisite resources to purchase. The truth of the allegations of where the document could be registered ought to have been brought at the trial before the court. The suit property was situate in village Kohali at Tehsil Ajnala and, therefore, the crucial issue for deciding the truth of plaintiff's assertion that he was waiting at the Registrar's office at Ajnala could have been tested in the cross-examination by eliciting that it was not the competent registering office for the property which was to be conveyed and called the bluff of the plaintiff, if it turned out that the document could have been registered only at Lopoke. I asked the counsel whether there had been any specific answer elicited about the competent office which could have registered and the counsel is unable to explain. He reiterates the arguments that he was waiting at Lopoke and the plaintiff was making an assertion that he was waiting at Ajnala office, which cannot be true. The two courts below have examined the plaintiff's readiness and willingness by the fact that he was relying on an affidavit of presence got noted by the registering office at Ajnala and the trial court and the appellate court have, therefore, not doubted about the plaintiff's readiness and willingness. I noticed that the suit was also instituted within the period of limitation on 4.9.2009 i.e. within the period of 3 years before when the transaction ought to have been completed.

3. The courts below have also commented about the conduct of

the defendant, who completely denied that he executed any agreement or that he received any consideration, but at the same time set up a defence that he was waiting at the Sub-Registrar's office at Lopoke to execute the sale deed. The inconsistent versions were mutually destructive and, therefore, the Court held that the defendant was coming with a false story to evade his liability.

4. The judgments and the decree passed by the courts below are well reasoned and would require no intervention in the second appeal. The same is dismissed.

September 8, 2015
prem

(K.KANNAN)
JUDGE