

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1919 of 2015 (O&M)
Date of Decision.02.09.2015

Jagtar SinghAppellant
Versus

Darshan SinghRespondent

2. RSA No.1918 of 2015

Kulwant SinghAppellant
Versus

Darshan SinghRespondent

Present: Mr. Rakesh Nagpal, Advocate
for the appellant.

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?

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K. KANNAN J. (ORAL)

1. Delay of 11 days in refiling the appeals is condoned.
2. The appeals are at the instance of the defendant in suits for specific performance. Under the terms of the agreement, the defendant had received ₹ 50,000/- each and balance of sale consideration which aggregated to ₹ 3 lacs under both the agreements were required to be paid. According to the plaintiff, he was ready and willing to perform his part of contract but the defendant was evading while defendant contends that the plaintiff did not have adequate resources to pay balance of sale consideration and obtain the sale deed. The plaintiff was trying to prove his own means by referring to two sale deeds, one a transaction of sale by him in favour of third party and yet

another a transaction of sale by his son in favour of third party. According to him, the sale consideration remained in his hand at that time to make the payment of balance. The defendant was pointing out to the fact that the plaintiff was never ready and willing and the defendant has even issued a notice for rescinding the contract and civil suit came to be filed only after such notice. He would also state that the sales relied on by the plaintiff merely recited the payment of consideration as having been already made and there was nothing to show that the amounts were actually paid only on the dates of sales and he held cash in his hands.

2. The two Courts below held that the plaintiff had established his readiness and willingness and the sale consideration mentioned in the two sales were sufficient to prove that he had necessary resources. It did not make much of the fact that the sale consideration which has been recited in the contract has already been paid. The payment as already done ought to be merely a matter of evidence, for, the payment made even a minute earlier could be considered as payment already made. If the Courts below have construed these agreements as making possible an inference that the plaintiff had enough resources to pay the balance and granted the decree also, I will not find that there is a defect in the Courts' approach to grant the decrees.

3. The learned counsel also states that apart from these two agreements, there were two other agreements which recited payment of larger consideration totalling about ₹ 35 lacs and there are independent proceedings against the respective vendors. I do not believe that there is any relevance for decision of this case to test the

readiness and willingness of the plaintiff. The issue of whether the plaintiff was ready and willing to pay the balance of amounts in view of two other agreements which have been sued upon will be considered independently at an appropriate time if either of the parties approaches this Court. As of now I do not find that there is any scope for interference in the instant cases. There exists no substantial question of law for consideration in the second appeals.

4. The second appeals are dismissed.

(K. KANNAN)
JUDGE

September 02, 2015
Pankaj*