

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

RSA No.2450 of 2015 (O&M)
Date of Decision.30.10.2015

Amar Singh (since deceased) through LRsAppellant

Versus

Sukhdev Singh and othersRespondents

Present: Mr. R.S. Chauhan, 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)

C.M. No.13695-C of 2015

For the reasons stated in the application, order passed by this Court on 20.10.2015 is recalled and the second appeal is restored to its original number.

Application is allowed.

RSA No.2450 of 2015

1. The legal representatives of the deceased defendant who had suffered a decree for specific performance at the Appellate Court are the appellants before this Court. At the trial Court, the contention by the defendant was that the agreement was forged and fabricated. This defence was rejected by the trial Court and the Court held that the plaintiff and the two attestors who had been examined were all persons engaged in the business of dealing in purchase and sale of properties and the transaction of agreement although true was not really intended to

take effect as an agreement of sale but it was merely money transaction. The trial Court had, therefore, provided only for alternate relief of recovery of money which was stated as having been received by the defendant. At the Appellate Court, the judgment was modified and a decree for specific performance was ordered consistent with its finding that the agreement was true and the contention taken by the defendant that the agreement was not true and it was forged and fabricated could not be accepted. The relief for specific performance is the only appropriate remedy possible and that will be tenable under Section 10 of the Specific Relief Act. If the agreement is found to be true and if the argument that the plaintiff and the witnesses were engaged in the business of dealing with properties, it could not have been an aspect which would allow for the defendant to contend that there was no intention to transfer property. On the other hand, the fact that they were dealers in properties would themselves vindicate the circumstance that there was an attempt to purchase property from the defendant and the defendant was taking up a plea that it was a forged document was not acceptable. The decree granted by the Appellate Court, was, therefore, perfectly justified.

2. There is no merit in the second appeal for consideration.
The second appeal is dismissed.

(K. KANNAN)
JUDGE

October 30, 2015
Pankaj*