

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 1222 of 2014

Date of decision : December 8, 2015

Tilak Raj

..... Appellant

Versus

Smt. Ninder Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Atul Jain, Advocate
for the appellant.

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?

Amit Rawal, J (oral).

The appellant-plaintiff in in Regular Second Appeal against the judgment and decree of both the courts below whereby instead of granting discretionary relief in a suit for specific performance of agreement to sell dated 13.1.2005, refund of earnest money with interest @ of 9% has been awarded.

Learned counsel for the appellant submits that the only ground which has weighed in the mind of the courts below that plaintiff on the stipulated date i.e. 20.9.2005 did not approach the office of sub Registrar for execution and registration of the sale deed, much less with the balance money and thus, he was not ready and willing to perform his part of the agreement.

He further submits that during the currency of the

agreement to sell defendant No.1-vendor on 25.7.2005 transferred the property to be sold in favour of his son, it is on account of the said reason, the appellant-plaintiff did not appear before the office of Sub Registrar, thus, prays for setting aside of the judgments and decrees of both the courts below as the aforementioned facts have not been noticed by the courts below.

I have heard learned counsel for the appellant and appraised the paper book.

Nothing prevented the plaintiff from sending a legal notice prior to filing of the suit with regard to transfer of suit property by defendant No.1 in favour of his son instead of giving explanation of non-appearance on the stipulated date i.e. 20.9.2005. The readiness and willingness has to be proved from the date of execution of the agreement to sell till filing of the suit and during the pendency of the suit.

In my view readiness and willingness evaporated as the plaintiff did not appear before the office of sub Registrar for execution and registration of the sale deed dated 13.1.2005.

Keeping in view the aforementioned facts, I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

December 8, 2015
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