

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA No.1233 of 2014(O&M)

Date of Decision:-23.01.2015

Jai Pal Singh.

.....Appellant.

Versus

Gurinder Pal Singh.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Surinder Mohan Sharma, Advocate for the appellant.

JASWANT SINGH, J.(ORAL)

Defendant is in second appeal aggrieved against the concurrent findings returned by the Courts below whereby the suit filed by the respondent/plaintiff for recovery of double the amount of earnest money in light of agreement to sell dated 24.09.2005 was decreed by the learned Civil Judge (Sr. Divn.), Ambala vide judgment and decree dated 23.07.2012 and the findings thereof were affirmed by the learned District Judge, Ambala vide judgment and decree dated 18.09.2013.

Learned Counsel for the appellant has argued that the learned Courts below have not appreciated the pleadings and evidence on record in the right perspective and the courts below have wrongly decreed the suit of the respondent/plaintiff for recovery of Rs.2 lacs i.e. double the amount of earnest money. Thus, prayer was made for setting aside the impugned judgment and decrees.

After hearing learned Counsel for the appellant and perusing

the paper book, this Court is of the considered view that the present second appeal is devoid of any merit and the same deserves to be dismissed.

The sole point that arises for determination before this Court is that whether the respondent/plaintiff was entitled to recover Rs.2 lacs i.e. double the amount of earnest money from the appellant as per the stipulation contained in agreement to sell (Ex.P-1). Agreement to sell (Ex.P-1) is admitted between the parties, however, the appellant/defendant has alleged interpolation, overwriting and cutting in the said agreement regarding the rate of sale consideration of the suit property in payment of 50% of the sale consideration upto December 2005. However, the said contention has rightly been negated by Courts below as the agreement to sell Ex.P-1 has been proved by the attesting witnesses who have categorically stated that the alleged cutting/overwriting was done by the appellant himself. The appellant has not lead any evidence either by way of oral or documentary to prove the said allegations. In view of the settled principles of law that the Civil Court is required to adjudicate the matter on the basis of preponderance of evidence led by the parties, this Court is of the opinion that both the Courts below have rightly decreed the suit of the plaintiff/respondent and no interference is warranted in the well reasoned judgment and decrees passed by the Courts below.

In view of the above, finding no question of law much less substantial question of law arising for determination in the present second appeal, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

January 23, 2015
Vinay