

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

**RSA No.4069 of 2015 (O&M)
Date of decision: 17.12.2015**

Bimla Devi (deceased) through LRs) ... Appellant
Vs.

Smt. Chandrawali (since deceased) through LRs & another
... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Aman Bahri, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.9920-C-2015

For the reasons stated in the application, duly supported by an affidavit, delay of 20 days in re-filing the appeal, is condoned.

C.M. stands disposed of.

C.M.No.9921-C-2015

The application is allowed, subject to all just exceptions. Legal representative of deceased Bimla Devi as mentioned in the application is ordered to be brought on record, for the purpose of prosecuting the present appeal.

RSA No.4069 of 2015 (O&M)

The appellant-plaintiff is in Regular Second Appeal

against the concurrent findings of facts and law, whereby, the suit for specific performance of the agreement to sell dated 17.08.1998 allegedly executed by defendant No.2 who was also holder of agreement dated 12.08.1998 from defendant No.1, has been dismissed and the appeal filed against thereof, has also met with the same fate.

Mr. Aman Bahri, learned counsel appearing on behalf of the appellant-plaintiff submits that before the trial Court, agreement to sell dated 12.08.1998 entered into between defendants No.1 and 2, had been proved. Once it has been proved, there was no occasion for the Courts below to deny the discretionary relief under Section 20 of the Specific Relief Act, much less, to dismiss the suit for specific performance of the agreement to sell dated 17.08.1998, thus, there is illegality and perversity in the findings rendered by both the Courts below, much less, substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellant-plaintiff and appraised the impugned judgments and decrees of the Courts below.

During the course of hearing, Mr. Bahri, has read over the contents of the agreement to sell dated 12.08.1998. It is revealed from the terms and conditions of the agreement that there is no “assignment clause” assigning the rights by a vendor to vendee to enter into further agreement to sell. In the absence of assignment clause, there is no contract between the appellant-plaintiff and

respondent-defendant No.1/original vendor. In the absence of any assignment clause, both the Courts below have rightly dismissed the suit, as well as, appeal.

There is another aspect of the matter. In the absence of assignment clause, defendant No.1 was not owner of the property and he was only holder of an agreement to sell, which does not confer title.

Keeping in view the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 17, 2015
savita