

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

C.M. NO.10249 C OF 2015 &

R.S.A. NO.4230 OF 2015

DATE OF DECISION: OCTOBER 28, 2015

Parveen Kumar

.....Appellant

VERSUS

Preeti Sharma

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

**Present: Mr. Deepak Aggarwal, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgement and decree passed by the Civil Judge (Senior Division), Bathinda, dated 07.02.2014, by which suit for recovery of an amount of ₹3,69,000/- i.e. ₹3,00,000/- being the amount of earnest money paid in lieu of agreement to sell dated 17.03.2008 and ₹69,000/- being the amount of interest @ 12% per annum from 17.03.2008 till the date of filing the suit alongwith pendente-lite and future interest at the rate of 12% per annum on the suit amount from the date of suit till the date of realization, stands decreed and appeal against which preferred by the appellant-defendant stands dismissed by the Additional District Judge, Bathinda on 13.05.2015.

It is the contention of learned counsel for the appellant that the

Courts below have not rightly appreciated the pleadings and evidence brought on record. There are grave discrepancies in the statement of respondent-plaintiff as also of the scribe, which goes a long way to show that the document i.e. agreement to sell dated 17.03.2008 is a forged and fabricated one and has not been prepared at the instance of the appellant-defendant, as has been observed by the Courts below. He contends that in the plaint it has been asserted by the respondent-plaintiff that on the day when she visited the house of the appellant-defendant, she had taken with her the balance sale consideration whereas in her cross-examination she has stated that she did not take the sale consideration amount with her on the day when she went to the house of the appellant-defendant for requesting him for execution of the sale deed on the next morning. He, therefore, contends that the respondent-plaintiff was not ready and willing to perform her part of the contract.

This contention of learned counsel for the appellant cannot be accepted in the light of the fact that the day on which she had visited the house of the appellant-defendant was not the date fixed for execution of the sale deed. In fact, the date fixed was the next day and since as per the pleadings and the evidence, the appellant-defendant had specifically stated that the plot has already been sold to some other person, there was no question of bringing the sale consideration or being present in the office of the Sub Registrar for execution of the sale deed, especially when he had flatly refused to execute the same.

As regards the cross-examination of the scribe, on which again reliance has been placed by counsel for the appellant by asserting that he did not know the sale consideration amount or the witnesses, who had signed

the agreement to sell nor has the consideration changed hands in his presence, suffice it to say that an explanation to that effect has been given by him by asserting that the sale consideration amount had changed hands at the house of appellant-defendant and the signatures were also put at that stage. It appears to be correct as far as the signatures of Bhim Sain, who was also mentioned as a witness, on the document is concerned but it has come in the statement of the respondent-plaintiff herself that said witness, when contacted, stated that he would come at a later stage and sign the same but thereafter he did not turn up.

As regards the execution of the agreement to sell is concerned, the same has been duly proved. Though the stand of the appellant-defendant was of total denial to the execution of the agreement to sell but the respondent-plaintiff has proved due execution of the agreement to sell and the signatures of the appellant-defendant by getting it compared with his standard signatures, so much so that it has come in evidence that the stamp papers were also purchased by Parveen Kumar, appellant-defendant, and his signatures were affixed on the register of the stamp vendor. The scribe has also stated that he had scribed the agreement to sell on and as per the instructions of Parveen Kumar, appellant-defendant. Thus, the findings recorded by the Courts below are based on proper appreciation of the pleadings and evidence brought on record and there is no misstatement or misreading of the same, as has been asserted by the counsel for the appellant.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal.

Therefore, finding no merit in the present appeal, the same stands dismissed.

Since the main appeal stands dismissed, C.M. No.10249 C of 2015 for staying the operation of the impugned judgements and decree is also dismissed.

**October 28, 2015
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**