

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

RSA No. 4337 of 2015 (O&M)

Date of decision: 22.09.2015

DALIP SINGH

... Appellant

versus

VINOD KUMAR

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Manish Kumar Singla, Advocate for the appellant.

K.Kannan, J.

The suit for specific performance was brought on an agreement which is admitted. The document recited the property as having been delivered to the plaintiff. The plaintiff at the time of evidence stated that the property had been actually delivered as per the recitals but after some days, the defendant wanted to take back possession for raising some crop which he acceded to. He, therefore, wanted the decree for specific performance as well as the direction for delivery.

The objection taken was that the Court could not have acted on an unregistered document of agreement when plaintiff was claiming the property as having been put in his possession in part performance of the agreement. The requirement of Section 53-A of the Property Act had not been fulfilled. The Appellate Court rejected the plea and permitted the decree for recovery of possession as well, although the trial Court did not grant for relief.

The requirement of registration under Section 53-A is applicable only in a case where the plaintiff was taking up a plea of part performance and enforcement of the right under Section 53-A. An agreement by itself does not require registration under the provisions of Section 17 of the Registration Act as applicable in Punjab. If there is an unregistered agreement it is perfectly enforceable for securing the relief

of specific performance. The issue of delivery of possession pursuant to a decree of specific performance is merely consequential whether the agreement refers to it or not. The case law abounds that a direction for delivery could be made even if there is no specific provision in the decree. If the plaintiff had been delivered possession but lost possession later, the Court is bound to provide for possession as consequential to the relief of specific performance. If the plaintiff had not been delivered the property under the terms of the document, even then as a person who obtains a decree and secures a sale deed, the purchaser is entitled to be put in possession as necessary warranty for transfer of title and as incident of transfer of ownership. There is no error for interference with the relief granted by the Courts below in the 2nd appeal.

The regular 2nd appeal is dismissed with above observations.

(K.KANNAN)
JUDGE

22.09.2015
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