

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.4354 of 2015 (O&M)

Date of Decision: December 10, 2015

Bijender Singh

...Appellant

Versus

Paras Ram

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Vaibhav Parashar, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Civil Misc.Nos.10484-85-C of 2015

For the reasons mentioned in the applications, which are supported by affidavits, delay of 27 days in refiling and 53 days in filing the appeal is condoned.

CMs stand disposed of.

RSA No.4354 of 2015

The appellant-defendant is in Regular Second Appeal against the concurrent findings of facts and law, whereby the suit for specific performance of the agreement dated 19.6.2000 in respect of 117th share in the land measuring 43 kanals 12 marlas, has been decreed and the appellant-defendant has been called upon to execute the sale deed on receipt of the balance sale consideration.

Learned counsel appearing on behalf of the appellant-defendant

submits that the execution of the agreement was denied. Be that as it may, but the fact remains that once the respondent-plaintiff had claimed the alternative relief of refund, his client is willing to return the earnest money. However, there was no readiness and willingness and the courts below have wrongly exercised the discretion under Section 20 of the Specific Relief Act.

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

The suit was filed on 15.6.2004 proceeded by a legal notice dated 15.6.2004. Since the appellant-defendant had denied the execution of the agreement to sell, he cannot take up the plea of readiness and willingness in view of the law laid down in **Sita Ram & Ors. Versus Radhey Shyam, 2007(4) R.C.R. (Civil) 533.**

The submission for the first time before this Court that the appellant is willing to return the earnest money is not able to cut the ice for the reason that once the appellant had denied the execution of the agreement to sell. Since over a period of ten years, the value of the property had increased, he has come forward to return the paltry amount of ₹63,000/-.

I do not intend to differ with the findings rendered by both the Courts below, which are based on appreciation of oral and documentary evidence. No substantial question of law arises for determination by this Court.

Accordingly, the appeal is dismissed.

December 10, 2015
ramesh

(AMIT RAWAL)
JUDGE