

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

RSA No.1850 of 2014 (O&M)
Date of decision: 04.03.2015

Amrik Singh

..... Appellant

Versus

Jaswinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ashok Giri, Advocate for the appellant.

Mr. Ramesh Sharma, Advocate for the respondents.

RAJESH BINDAL, J

The successor-in-interest of the deceased-defendant, Mohinder Singh is before this Court against the concurrent finding of fact recorded by both the courts below, whereby, the suit filed by respondent No.1/plaintiff for possession by way of specific performance of agreement to sell was decreed only to the extent of refund of earnest money with interest @ 6% per annum from the date of filing the suit till realisation.

Learned counsel for the appellant submitted that the agreement to sell was executed by the petitioner in favour of respondent No.1 on 27.6.2000. Earnest money of ₹ 6,25,000/- was received. The last date fixed for execution of the sale deed was 27.12.2000. In terms of the provisions of Limitation Act, 1963, the suit could be filed within a period of three years. Limitation expired on 26.12.2003. The suit having been filed on 2.1.2004 was time barred, hence, even the relief of refund of earnest money with interest could not be granted to respondent No.1/plaintiff.

After hearing learned counsel for the appellant, I do not find any merit in the submissions made.

Admittedly, the limitation for filing the suit expired on 26.12.2003. It was the period when the court was closed on account of

winter vacations. The suit having been filed immediately on the opening thereof on 2.1.2004, cannot be said to be barred by limitation, thereby dis-entitling the respondent No.1/plaintiff even the relief of refund of earnest money with interest. In fact, the learned courts below were quite reasonable while declining relief of specific performance of agreement to sell and had only granted the relief of refund of earnest money with interest. The vendee was satisfied even with that relief, as he did not file appeal. It is only the vendor, who filed first appeal and is also before this Court. Apparently, his intention is even to retain the amount of earnest money, which would not be reasonable.

No substantial question of law arises in the present appeal, accordingly, the same is dismissed.

(RAJESH BINDAL)
JUDGE

04.03.2015

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