

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

**RSA No.1953 of 2014 (O & M)  
Date of Decision:10.02.2015**

Tara Chand and another

....appellants

Versus

Sarjeet and others

.....respondents

**CORAM: HON'BLE MR.JUSTICE ARUN PALLI**

- 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.Sanjay Verma, Advocate  
for the appellants

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**ARUN PALLI, J.(ORAL):-**

Suit filed by the plaintiff was decreed by the trial Court vide judgement and decree dated 26.02.2013. Appeal preferred against the said decree failed and was dismissed on 11.12.2013. This is how, defendants are before this Court in this Regular Second Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

In short, plaintiff prayed for a decree for possession by way of specific performance of the contract and also claimed a decree for injunction restraining the defendant from alienating the suit property in any manner. It was averred that an agreement to sell was entered into between the parties qua an agricultural land measuring

7 kanals on 30.08.2005 for a total consideration of ₹ 1,75,000/-. A sum of ₹ 20,000 was paid to the defendant by way of earnest money at the time of execution of the agreement. The date fixed for execution and registration of the sale deed was 15.04.2006. From 14.04.2006 to 16.04.2006, there were holidays, as a result office of Sub-Registrar, Nuh, was closed. However, plaintiff went to the office of Sub-Registrar, Nuh on 13.04.2006, along with the balance sale consideration and necessary funds to defray the requisite expenses. But the defendant did not turn up to perform his part of the contract. Eventually, the plaintiff got his presence marked by getting his affidavit attested by the Sub-Registrar, Nuh. Thereafter, plaintiff visited the house of defendant on 15.04.2006, and defendant assured the plaintiff that he would be present in the office of Sub-Registrar, Nuh on 17.04.2006. Again, plaintiff went to the office of Sub-Registrar, Nuh on 17.04.2006, but, yet again, defendant failed to turn up to perform his part of the contract. Defendant refused to acknowledge the claim of the plaintiff, thus the suit.

In defence, it was pleaded, inter alia, by the grandsons of the defendant i.e. Richhpal that their grandfather never executed any agreement to sell in favour of the plaintiff. The agreement in question was alleged to be wholly false. That being so, it was maintained that there was no occasion for the plaintiff to be ready and willing to perform his part of the contract.

On a consideration of the matter in issue and the evidence on record, the courts below found that one of the attesting witnesses of the agreement i.e. Bashir-PW2, testified in his statement

that defendant Richhpal, executed the agreement dated 30.08.2005 (Ex.P1), in his presence, vide which, he agreed to sell the suit land to Sarjeet for a consideration of ₹ 1,75,000/-. And received a sum of ₹ 20,000/- in advance. He further deposed that the agreement in question was typed by Iqbal Singh Malik, Advocate, at the instance of defendant Richhpal. Rohit Malik, Advocate-PW4, son of the scribe identified the signatures of his father Iqbal Singh Malik, Advocate on Ex.P1. Nothing was brought on record to prove that the agreement in question was indeed a forged and fabricated document. Whether, plaintiff was ready and willing to perform his part of the contract, the evidence on record showed that although the date fixed for execution and registration of the sale deed was 15.04.2006 but as 14.04.2006 to 16.04.2006 were holidays, plaintiff along with the balance sale consideration and requisite funds to defray the necessary expenses, appeared before Sub-Registrar, Nuh, on 13.04.2006. He was even present in the office of Sub-Registrar on 17.04.2006, but despite assurance, defendant Richhpal failed to turn up to perform his part of the contract. Affidavits Ex.P3 and Ex.P4 proved the presence of the plaintiff in the office of Sub-Registrar, Nuh. Defendant having denied the very execution of the agreement, and as the same was purported to be a forged and fabricated document, it was observed they could hardly maintain that plaintiff was not ready and willing to perform his part of the contract. Resultantly, the suit was decreed by the trial Court. Appeal preferred against the said decree failed and was accordingly dismissed.

I have heard learned counsel for the appellant and

perused the RSA paper book.

Learned counsel for the appellants simply seeks to reiterate the submissions that were advanced before the Courts below and rejected after a due and comprehensive consideration. No other argument was advanced.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant appeal is devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Needless to assert, for plaintiff to be entitled to a decree for specific performance of the contract, he was required to prove the due and valid execution of the agreement dated 30.08.2005 (Ex.P1). Plaintiff(PW1), appeared in support of his case and proved his claim. One of the attesting witnesses of the agreement i.e. Bashir-PW2, testified that defendant-Richhpal had indeed executed the agreement in question and had received a sum of ₹ 20,000/- by way of earnest money. The agreement to sell (Ex.P1) was typed by Iqbal Singh Malik, Advocate and the contents thereof were duly read over and explained to the defendant-Richhpal, who having admitted and understood the same signed the document. Son of the scribe i.e. Rohit Malik, Advocate-PW4, duly identified the signatures of his late father on the agreement in question. In fact, on 30.08.2005, the day, the agreement in question was executed between the parties, another agreement to sell (Ex.P5) was executed by Dhani Ram son of Richhpal in favour of the plaintiff and pursuant thereto, a sale deed (Ex.P8) was executed and registered in favour of the plaintiff.

A separate receipt (Ex.P2) executed by the defendant proved the receipt of earnest money. Sahabuddin-PW3, stamp vendor, testified that defendant Richhpal had obtained stamp papers from him. The fact, that was proved from the copy of the register of the stamp vendor Ex.PW3/A. He even proved an entry i.e.No.5207 in his register. The vakalatnama that was submitted by Sh.N.K.Yadav, Advocate, on behalf of the defendant-Richhpal, bears the signatures of the defendant-Richhpal. Thus, the stand set out by the defendants that Richhpal had never signed any document, in his life, also stood vitiated. No expert was examined by the defendants to show that the agreement to sell dated 30.08.2005 (Ex.P1) was not signed by Richhpal. No evidence was led by the defendants to prove that the agreement in question was a forged and fabricated document. As is discernible from the records i.e.Ex.P3 and Ex.P4, the plaintiff duly appeared before the Sub-Registrar, Nuh, on 14.04.2006 and thereafter on 17.04.2006, since the office of Sub-Registrar, Nuh, was closed w.e.f.14.04.2006 to 16.04.2006 on account of holidays.

Learned counsel for the appellants could not point out as to how the findings that were concurrently recorded by both the Courts were either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration in the

present appeal. The same being devoid of merit is accordingly,  
dismissed.

10.02.2015  
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**(ARUN PALLI)**  
**JUDGE**