

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2414 of 2014 (O&M)
Date of decision : December 10, 2015

Bimla Rani and others

..... Appellant

Versus

Bahadur Singh

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajinder Goyal, Advocate
for the appellant.

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?

Amit Rawal, J (oral).

The appellants-plaintiffs are in Regular Second Appeal against concurrent finding of fact whereby the suit for possession by way of specific performance of agreement to sell dated 5.7.1995, much less alternative relief for recovery of ₹2,60,000/- was not granted.

Learned counsel for the appellants-plaintiffs submits that at the time of execution of the agreement to sell dated 5.7.1995 the entire sale consideration to the tune of ₹1,30,00/- was paid and the plaintiffs were put into possession. The vendee was none else but Ramesh Kumar (since deceased). During his life time had been approaching the defendants for execution of the sale deed and

defendants were putting off the matter on one pretext or the other. Even after his demise, his legal representatives have been making similar request and legal notice was sent in the month of January. After refusal, the suit was filed on 1.2.2007. Since the sale deed did not envisage any specific date for execution and registration of the sale deed, thus, time was not essence of the contract, therefore, the suit was not barred on the ground of limitation, in fact, provisions of Article 54 of the Limitation Act, 1963 have been misinterpreted, thus, there is illegality and perversity in the impugned orders, much less substantial question of law arise for determination by this court.

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

It is a matter of record that the sale consideration had been paid in the year 1995. No steps have been taken by the predecessor-in-interest of the appellant-plaintiff during all this period for not getting the sale deed executed. The suit was not preceded by any legal notice.

In my view, the readiness and willingness as per provisions of Section 16-C of the Specific Relief Act, 1983 was conspicuously absent. Rightly so, the trial court rejected the discretionary relief. Even the plaintiff has also lost the right to recover the earnest money as the suit was barred by law of limitation.

Keeping in view the aforementioned facts, I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment

and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

December 10, 2015
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