

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

107

Regular Second Appeal No.258 of 2014 (O&M)

Date of Decision: August 11, 2015

Gurbax Singh

...Appellant

Versus

Pritpal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vijay Lath, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J.

CM No.613-C of 2014

Prayer in this application is to make good the deficiency of
Court fee of ₹12,854/-.

It has been asserted that the appellant had affixed the Court fee
of ₹10,700/- in the appeal at the time of filing of the appeal on 10.09.2012
but in view of the amendment of Court Fees Act, Court fee for a sum of
₹23,554/- was required to be affixed, thus, there is a deficiency of ₹12,854/.
Along with the application, deficient Court fee of ₹12,854/- is affixed and,
therefore, is being sought to be made good.

In view of the above, the present application is allowed.

Deficiency in Court fee of ₹12,854/- is ordered to be made
good.

CM No.614-C of 2014

Application is allowed subject to just exceptions.

Exemption from filing the certified copies of judgment and

decree dated 07.09.2012 passed by the learned Additional Civil Judge (Senior Division) Anandpur Sahib and Grounds of Appeal filed before the District Judge, Rupnagar, is granted.

RSA No.258 of 2014 (O&M)

Prayer in this appeal is for setting aside the judgments and decree passed by the Courts below, vide which the suit for possession by way of specific performance of contract for sale on the basis of the agreement dated 14.02.2006 regarding land measuring 28 kanals 9 marlas being $\frac{1}{4}$ share of 113 kanals 17 marlas Khata No.136/193 with Khasra numbers detailed in the heading of the suit situated in village Chandpur Bela, Hadbast 368 on payment of balance amount of sale price of ₹7,53,500/-, has been decreed.

2. It is the contention of the counsel for the appellant that the appellant is an infirm old man, aged about 85 years, and a fraud has been committed on him as the signatures of the appellant-defendant on the agreement are not his. The agreement is a fabricated piece of evidence prepared at the instance of the respondent-plaintiff. He contends that as per the report of the Handwriting Expert Shri Kranti K. Sharma, who appeared as DW-2, the signatures on the agreement dated 14.02.2006 Exhibit P-4 do not tally with the standard signatures of the appellant-defendant. Those signatures are not that of the appellant and not put by him and this is a product of copied forgery. His further contention is that even if the agreement is stated to be correct and is taken, as it is, there was a stipulation therein that the respondent-plaintiff could deposit the remaining amount of sale consideration in the Court and then file proceedings in Court, which till date has not been done by the respondent-plaintiff as the amount has not

been deposited. He, on the basis of these two assertions, contends that the impugned judgments and the decree deserve to be set aside.

3. I have considered the submissions made by the counsel for the appellant and have gone through the records of the case.

4. The assertion of the counsel for the appellant with regard to the signatures of the appellant-defendant being forged and not put by him on the basis of the expert evidence, has been dealt with by the Courts below at length. The Courts had noticed that the appellant-defendant Gurbax Singh appeared as DW-1 and simply denied having signed all the documents, which bore his standard signatures. The Appellate Court has reproduced the relevant extract of the cross-examination. Appellant has denied his signatures on the affidavit Exhibit DW1/A, the application moved by his counsel dated 30.08.2011 in the Court, Exhibit DW2/2, which is the report of the Expert examined by him. Signatures on the power of attorney, which was given to his counsel dated 07.05.2012. He also denied signatures on the written statement, statement dated 12.05.2012 made in the Court regarding tendering his affidavit and the signatures put on the affidavit filed along with the written statement. If he has himself denied the standard signatures on the basis of which the Handwriting Expert had given his opinion, the report of such a witness (Handwriting Expert) is rendered meaningless and cannot be relied upon. The Court has further gone to the extent of holding that the signatures of Gurbax Singh are not only existing on the agreement dated 14.02.2006 Exhibit P-4 but on the stamp vendor's register and also on the scribe's register. It is just not possible that the signatures have been forged on large number of documents of the appellant-defendant and, therefore, it does not sound plausible that the signatures have not been put

by the appellant-defendant on the said documents. The testimony of the attesting witness PW-3 Simranjit Singh, PW-2 Vishwa Nath son of the scribe and PW-1 the respondent-plaintiff is consistent and sufficient to prove the factum of the execution of agreement dated 14.02.2006 by the appellant-defendant. The date on which the sale deed was to be executed i.e. 14.08.2006 in terms of the agreement, the respondent-plaintiff appeared before the Executive Magistrate, Anandpur Sahib and executed an affidavit Exhibit P-10. Respondent-plaintiff remained present in the Tehsil Complex waiting for the appellant-defendant but he failed to come there. All this shows beyond doubt that the respondent-plaintiff was always ready and willing to execute the sale deed and fulfilled the terms of the contract, whereas the appellant-defendant failed to appear before the Registrar. Contention thus raised by the counsel for the appellant-defendant cannot be accepted.

5. As regards the assertion of the counsel for the appellant-defendant that as per the agreement, the amount should have been deposited in the Court and thereafter the proceedings initiated, suffice it to say that the evidence, as has been produced and discussed above, indicates that the respondent-plaintiff was always ready and willing to execute the sale deed and in that context had presented himself and remained present in the Tehsil Complex waiting for the appellant-defendant on 14.08.2006 but the appellant-defendant failed to reach there. In these circumstances, it cannot be said that the respondent-plaintiff was not willing to execute the sale deed.

6. Finding no merit in the contention, as has been raised by the counsel for the appellant, the appeal does not deserves admission, specially

when no substantial question of law arises, which requires adjudication by this Court

7. In view of the above, the present appeal stands dismissed.

8. In the light of the dismissal of the appeal, the application for stay i.e. CM No.615-C of 2014, also stands dismissed.

August 11, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**