

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

RSA No.2743 of 2014 (O&M)

Date of decision : 15.01.2015

Ranjit Singh

...Appellant

Versus

Karam Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S. Sewak, Advocate
for the appellant.

Mr. Vijay Lath, Advocate
for the respondent.

AMIT RAWAL, J. (Oral)

This is a Regular Second Appeal at the instance of one LR of defendant No.1 namely Ranjit Singh against the judgment and decree of both the Courts below, whereby the suit of the plaintiff for specific performance of agreement to sell dated 11.07.2002 in respect of land measuring 3 Bighas and 18 Biswas as described in the plaint has been decreed by both the Courts below.

An agreement to sell dated 11.07.2002 in respect of the land at the rate of ₹3,70,000/- per acre was entered into between Gian Singh-defendant-Vendor and the Karam Singh-plaintiff. The defendant is stated to have received a sum of ₹1,30,000/- as an earnest money.

The target date for the execution of the registration of the sale deed was 30.12.2002 which was extended to 16.06.2003 and endorsement to this effect was made on the agreement attested by the witnesses of the agreement. As per the case set out by the plaintiff, the plaintiff approached the defendant to get the land cleared from the bank. However, the defendant neither cleared the liability and rather sought another extension for execution of the sale deed, from 16.06.2003 to 26.12.2003 and again the endorsement to this effect was made. The target date was again, on the request of the defendant, was extended from 26.12.2003 to 26.12.2004. Despite the assurance given by the defendant to get the land cleared from the bank, defendant did not get the land cleared. The respondent-plaintiff approached the office of Sub Registrar on target date with the balance sale consideration, but the defendant did not turn up and accordingly he marked his presence. The plaintiff thereafter filed a suit on 08.09.2007.

In support of the case, the plaintiff proved the execution of the agreement by examining the attesting witnesses of the agreement as well as endorsement with regard to the extension. The plaintiff proved the readiness and willingness qua performance of his part by placing on record the documents Ex.P6 to Ex.P7 and on examination of the aforementioned oral and documentary evidence, the trial Court granted the discretionary relief as enshrined under Section 20 of the Specific Relief Act by decreeing the suit for specific performance of the plaintiff and directed the defendant to get the sale deed executed in

favour of the plaintiff within three months from the date of the decree subject to the payment of balance sale consideration. It was further mentioned that in case defendant failed to get the sale deed registered within the time granted, the plaintiff would be entitled to get the sale deed registered through the process of Court.

Appellant-defendant No.1 i.e. one of the LR of Gian Singh challenged the judgment and decree passed by Court below by filing the appeal under Section 96 of the Code of Civil Procedure and the lower Appellate Court after appreciating oral & documentary evidence much less law dismissed the appeal.

Mr. B.S. Sewak, learned counsel appearing on behalf of appellant-defendant submits that both the Courts below while dismissing the appeal have committed illegality much less perversity and therefore the present appeal involves substantial questions of law to be adjudicated by this Court. He further submitted that there were four deaths in the family, the appellant could not produce any evidence in his defence. Due to the non production of the evidence, the trial Court decreed the suit and in view of such situation, he submitted that the matter be remanded back to the trial Court in order to enable the appellant to produce the evidence and to prove the defence taken in the written statement.

Learned counsel appearing on behalf of respondent-plaintiff contends that both the Courts below have rendered the findings of the fact based on the oral and documentary evidence and

readiness and willingness to perform his part of the performance has duly been proved and discretion under Section 20 of the Specific Relief Act thereafter has been exercised. He further submits that the execution of the agreement & extensions for execution of registration of the sale deed had duly been proved through testimony of the attesting witnesses and the appellant-defendant has not been able to cause any dent much less but any suggestion to the aforementioned witnesses.

I have heard learned counsel for the parties and perused the impugned judgment and decree. The arguments of the learned counsel appearing on behalf of plaintiff though appears to be very attractive but does not have any force and sans merit, inasmuch, as the appellant-defendants failed to challenge the order, whereby the evidence qua order was closed. Be that as it may. Even if appellant-defendant had not led evidence, it is settled law that the plaintiff has to stand on his leg. The plaintiff-respondent in order to discharge the onus examined the attesting witnesses of the agreement to sell much less marked presence before the Office of Sub-Registrar. The appellant-defendant has not been able to rebut the onus which has been discharged by the plaintiff.

The trial Court has rightly exercised the discretion under Section 20 of the Specific Relief Act by decreeing the suit. Since appellant -defendant failed to lead any evidence and at this stage it would not appropriate to remand back the matter to the trial Court.

Both the Courts below have rendered the findings of the

I do not find any illegality and perversity in the findings recorded by the Courts below which is based on the facts and the law. No substantial question arises for adjudication of the present appeal. No other point has been urged.

Accordingly, the present appeal is dismissed.

15.01.2015

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**(AMIT RAWAL)
JUDGE**