

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

**Regular Second Appeal No.3231 of 2014
Date of decision : 25.05.2015**

Santosh Aggarwal ...Appellant
versus

Gurjit Singh & others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S.Mehndiratta, Advocate for the appellant.

RITU BAHRI, J (Oral)

The plaintiff has come up in regular second appeal against the judgment of the lower appellate Court whereby the appeal filed by the plaintiff has been dismissed and the order of the trial Court partly decreeing the suit of the plaintiff has been affirmed.

The agreement between the plaintiff and defendant No.1 was not in dispute, however, DW3 had categorically submitted that he is a bonafide purchaser for consideration and had no knowledge about the existence of the agreement between plaintiff and defendant No.1. Rs.20,000/- was paid by defendant No.1 proved by Ex.PW2 and attendance register at Sr.No.67 dated 23.08.2005 of plaintiff Ex.P7 and affidavits of the plaintiff. Subsequently, defendant No.1 made sale of this property in favour of defendant No.2 and mutation No.4722 Ex.D3 was entered and sanctioned on 31.05.2005 in favour of defendant No.2. Defendant No.3 thereafter on 20.09.2005, vide registered sale deed Ex.D2 purchased the said property from defendant No.2.

Defendant No.3 as per the revenue record purchased the property from defendant No.2 who was the owner of suit property. But defendant No.3 has been treated to be a bonafide purchaser of the said property and defendant No.3 had no knowledge of agreement between the plaintiff and defendant No.1. In the backdrop of the entry of mutation No.4722 Ex.D3 in favour of defendant No.2, the trial Court had decreed the suit of the plaintiff with cost to the effect that the plaintiff is entitled to refund of earnest money of Rs.20,000/- with interest @ 12% per annum from the date of agreement to sell dated 25.02.2005 till realisation. The discretion has been exercised by both the Courts in view of Section 19 of the Specific Relief Act, 1963. No substantial question of law arises for consideration.

Dismissed.

25.05.2015
Vinay

(RITU BAHRI)
JUDGE