

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

RSA No. 3244 of 2014 (O&M)

Date of decision : 19.5.2015

Kabal Singh

... Appellant

VS

Smt. Sukhwinder and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Birinder Singh, Advocate, for the appellant.

Rajesh Bindal, J.

The plaintiff is before this Court impugning the judgment and decree of the learned Lower Appellate Court vide which only the relief of refund of earnest money along with interest, was granted.

In the case in hand, the appellant-plaintiff filed suit for specific performance of agreement to sell dated 11.5.2005 in respect of 30 marlas of land out of 3 kanals. Out of the total sale consideration of ₹ 2 lacs, ₹ 1 lac was paid as earnest money. Trial Court dismissed the suit. The learned Lower Appellate Court, in an appeal, filed by the present appellant, decreed the suit only to the extent of refund of earnest money along with interest.

Learned counsel for the appellant submitted that once the agreement to sell was proved, the appellant was entitled to the relief of specific performance of agreement to sell. Merely because no date and time was fixed for execution of sale-deed, when the appellant had issued notice to the respondents for getting the sale-deed registered, he was ready and willing to get the same registered, hence, in these circumstances, ready and willingness of the appellant to get the same executed could not be doubted.

Having heard learned counsel for the appellant, I do not find any reason to interfere with the judgment and decree of the learned Lower Appellate Court whereby the relief of refund of earnest money has been granted to the appellant.

Vendor Major Singh expired during the pendency of the suit. His LRs have been brought on record. 30 marlas of land was allegedly agreed to be sold for a sum of ₹ 2 lacs. No date and time for execution of sale-deed was fixed. The property had not been properly identified in the agreement to sell. In these circumstances, the learned Court below has not granted the relief of specific performance of agreement to sell and instead granted refund of earnest money along with interest. I do not find that the discretion exercised by the learned Lower Appellate Court in granting refund of earnest money along with interest deserves to be interfered with.

No substantial question of law arises.

The appeal is, accordingly, dismissed. Consequently, the application for delay is also dismissed.

19.5.2015
vs

(Rajesh Bindal)
Judge