

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

R.S.A.No.5984 of 2015 (O&M)

Date of Decision: December 7, 2015

Smt.Pushpa Devi & another

...Appellants

Versus

Smt.Phooli

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

**Present: Mr.Vishal Nehra, Advocate,
for the appellants.**

AMIT RAWAL, J. (Oral)

The appellant-defendants are in Regular Second Appeal against the concurrent findings of facts and law, whereby the suit filed by the respondent-plaintiff seeking possession of 4 kanals of agricultural land and 100 Sq.yards land situated in Laldora by seeking cancellation of the agreement to sell dated 14.2.2006, has been decreed.

Mr.Vishal Nehra, learned counsel appearing on behalf of the appellant-defendants submit that the respondent-plaintiff had entered into an agreement to sell dated 14.2.2006 in respect of the aforementioned land and on the agreed stipulated date, the appellant-defendants appeared before the office of the Sub-Registrar for performance of their agreement, but the respondent-plaintiff did not appear. A suit for specific performance in respect of the agricultural land had been filed, but, however, the same has been dismissed for non-prosecution. Vis-a-vis 100 sq.yard land, the

appellant-defendants have paid a sum of ₹30,000/- against the total sale consideration of ₹1.00 lac and they have been handed over the possession of the aforementioned properties. Both the Courts below have committed illegality and perversity in not appreciating the fact that there cannot be any sale deed with regard to the property situated within the Laldora, i.e., 100 sq.yards and there has to be rapat roznamcha. The appellant-defendants were ready and willing to perform their part of the contract and till date, they are also ready and willing.

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

Once the appellant-defendants have failed to seek specific performance of the agreement to sell despite having availed the remedy and got the suit dismissed for non-prosecution and did not revive it, the status of the appellant-defendants is nothing but that of trespassers as the agreement to sell does not confer any title. However, in the present suit, the agreement to sell dated 14.2.2006 has been declared to be illegal null and void on the ground that the land agreed to be sold could not be sold by the respondent-plaintiff being dholidar. Even in the instant suit, the appellant-defendants had not filed any counter-claim seeking specific performance.

I do not intend to differ with the findings rendered by both the Courts below. The appeal is accordingly dismissed.

December 7, 2015
ramesh

(AMIT RAWAL)
JUDGE