

RSA No. 629 of 2015 (O&M)

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

RSA No. 629 of 2015 (O&M)

Date of Decision: November 27, 2015

Sadhu Singh & others

...Appellants

Versus

Hari Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Akshay Kumar Goel, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (Oral):

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Dhuri, dated 30.10.2010, whereby, the suit for specific performance of agreement to sell dated 14.10.2005 with regard to land measuring 2 bighas 9 biswas, as detailed in the suit, situated in the revenue limits of village Bardwal, Tehsil Dhuri, District Sangrur, stands decreed, appeal against which preferred by the appellant-defendants has been dismissed by the learned District Judge, Sangrur, dated 29.09.2014.

It is the contention of the learned counsel for the appellants that only the land was sold. He contends that the residential house of the appellant-defendants is standing on the said land and with the execution of the sale-deed, the result would be that they would be left with no residence and will come on the road. His

further contention is that two banks who have been impleaded as parties, have also got to be paid their dues which although has been taken care off by the learned Appellate Court but the said amount in excess of the sale consideration has to be recovered from the appellant-defendants and they have no other source to repay the same. He, thus, contends that the judgments and decree passed by the Courts below deserve to be set aside and the suit of the respondent-plaintiff deserves dismissal.

This contention of the learned counsel for the appellants cannot be accepted in the light of the fact that the respondent-plaintiff has been able to prove, on the basis of cogent evidence, the due execution of the agreement to sell dated 14.10.2005 as also the payment of the earned money amounting to ₹9,00,000/- out of the total sale consideration of ₹18,15,000/-. The sale deed was to be executed on or before 05.06.2006 which the appellant-defendants failed to execute despite the respondent-plaintiff being always ready and willing to perform his part of the contract. The Courts below have rightly appreciated the pleadings and the evidence led by the parties to come to the conclusion that the agreement to sell has been duly executed and the earnest money has also been paid. The Courts below have also taken into consideration the interest of the two banks as far as their liability towards the respondents and the appellants are concerned. It is a settled proposition of law that the building and the structures on the land which has been sold also

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forms part of the said land and therefore, the argument of the learned counsel for the appellants that the buildings and the residential house of the appellant-defendants cannot be said to have been sold, cannot be accepted.

A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below are based on proper appreciation of the evidence brought on record which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

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In view of the order passed in the main appeal, the present application for staying the judgments and decree passed by the Courts below till the final disposal of the appeal, has become infructuous.

Disposed of as such.

November 27, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**