

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

RSA No.655 of 2015 (O&M)

Date of decision: 16.10.2015

Trinetar Tiwari and others

... Appellants

Vs.

Kuldeep Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Kulvir Narwal, Advocate for the appellants.

AMIT RAWAL J. (Oral)

Appellant-plaintiffs are in Regular Second Appeal against the concurrent findings of facts and law, whereby, the relief claiming specific performance of the agreement to sell dated 26.04.2003, has been declined, whereas, refund of ₹1,20,000/- along with interest @ 9% per annum, has been ordered.

Mr. Kulvir Narwal, learned counsel appearing on behalf of the appellant-plaintiffs submits that vendor had instituted a suit on 29.11.2006 against him, not to sell and alienate the land, whereas, the target date was 31.01.2004 and the total sale consideration was ₹5,70,000/-, out of which earnest money of ₹1,20,000/- has been paid. He further submits that both the Courts below have committed illegality and perversity in not noticing the aforementioned facts.

There is specific averment with regard to readiness and willingness.

I have heard learned counsel for the appellant/plaintiffs and appraised the impugned judgments and decrees of the Courts below.

It is now well settled law that readiness and willingness has to be proved from the date of execution of the agreement to sell, during its currency, till filing of the suit and during the pendency of the suit. The aforementioned view of mine is taken from the judgment rendered by the Hon'ble Supreme Court in **Sita Ram and others vs. Radhey Shyam** 2007(4) R.C.R.(Civil) 533. In the instant case, appellant-plaintiffs did not appear before the Sub Registrar on the target date, i.e., 31.01.2004 and thereafter, woke up from slumber on 29.11.2006. Thus, there is no explanation with regard to readiness and willingness. In view of the ratio decidendi culled out in Sita Ram's case (supra), readiness and willingness is conspicuously wanting, therefore, exercise of discretionary power under Section 20 of the Specific Relief Act, has rightly been declined.

I do not intend to differ with the findings rendered by the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises to be adjudicated by this Court.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

October 16, 2015
savita