

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

RSA No.800 of 2015 (O&M)

Date of Decision: November 19, 2015

Dalip Singh (deceased) through LRs

.... Appellants

vs.

Sukhwant Singh (deceased) though LRs and others

... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. G.S. Nagra, Advocate for the appellants.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

CM No.2375-C-2015

There is delay of 11 days in filing the present appeal.

For the reasons mentioned in the application, supported by an affidavits, delay of 11 days in filing the present appeal is condoned.

Application stands disposed of.

RSA-800-2015

Impugned in the present regular second appeal is the judgment and decree dated 31.07.2014 passed by learned Addl.

District Judge, Kapurthala, affirming the judgment and decree dated 28.10.1999 passed by learned Addl. Civil Judge (Sr. Divn.), Kapurthala, vide which the suit of the plaintiff for possession by way of specific performance and for permanent injunction was dismissed. However, the alternative relief for recovery of ₹1,85,000/- (₹1,35,000/- earnest money + ₹50,000/- paid as part sale consideration) from the defendants along with interest @ 12% per annum from the date of filing of the suit till its realization was granted.

I have heard learned counsel for the appellants and have also carefully gone through the case file.

It comes out that an alternative relief has been granted by the lower court on the ground that though, the agreement is proved and as per the stipulation, the sale deed was to be executed within one month from the sanctioning of mutation in the name of the defendants but the plaintiffs came to know about the transfer and sanctioning of mutation in the name of the defendants from the written statement filed in the previous suit instituted by the plaintiffs. They also did not pay the stipulated amount in installments i.e. ₹1,00,000/- on 30.11.1990, ₹1,30,000/- on 10.05.1991, ₹1,20,000/- on 10.10.1991, ₹1,30,000/- on 10.05.1992 and balance of ₹1,35,000/- on 30.10.1992.

It comes out that in the agreement itself, there was a condition regarding payment of balance sale consideration in installments, which were not paid. Therefore, there is nothing to dispute the findings recorded by both the courts below that the

plaintiff was not ready and willing to perform his part of the contract.

There are concurrent findings of both the courts below. No substantial question of law arises in the present appeal.

Hence, the present regular second appeal stands dismissed.

November 19, 2015
sarita

(KULDIP SINGH)
JUDGE