

C.M. Nos.8798 C of 2014 & 10128 C of 2015 (O&M)
R.S.A. NO.3772 OF 2014

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

DATE OF DECISION: SEPTEMBER 01, 2015

Suresh Kumar Kataria

.....Appellant

VERSUS

Jeet Kaur and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

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

**Present: Mr. Daman Jeet, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASI, J. (ORAL)

C.M. No.10128 C of 2015

C.M. is allowed.

**Agreement to sell dated 31.08.2005 and receipt dated
23.07.2015 are taken on record.**

R.S.A. No.3772 of 2014

**Challenge in this appeal is to the judgment and decree passed
by the Court below i.e. the Additional Civil Judge (Senior Division),
Bathinda dated 17.11.2011 vide which the suit for specific performance has
been dismissed. However, the refund of the earnest money i.e. ₹1,20,000/-
has been ordered. Even the appeal against the judgment and order dated
17.11.2011 stands dismissed by the Additional District Judge, Bathinda, on**

03.05.2014.

It is the contention of counsel for the appellant that the appellant-plaintiff was always ready and willing to perform his part of the contract and in this regard had, on the date fixed for execution of the sale deed i.e. 10.11.2005, gone to the office of the Sub Registrar and got marked his presence. He contends that willingness is apparent because of his presence in the office of Sub Registrar on the date fixed for execution of the sale deed and, therefore, the finding recorded by the Courts below that he was not ready and willing to perform his part of the agreement, cannot sustain and deserves to be set-aside.

I have considered the submissions made by counsel for the appellant and also gone through the judgments passed by the Courts below with his assistance.

Both the Courts below have placed reliance upon an affidavit, Ex.PW2/A, which has been submitted by the appellant-plaintiff in the office of the Sub Registrar on 10.11.2005, which clearly indicates that he had doubted the ownership of Jeet Kaur, respondent-defendant, who had entered into an agreement to sell. It was further mentioned that they have been cheated and there was no road on Multania Road, which was mentioned in the agreement and rather it is 100 ft. wide road actually whereas it was mentioned as 20 ft. wide street. The Courts have rightly concluded that in the light of affidavit, Ex.PW2/A, it is apparent that the appellant-plaintiff was not ready and willing to perform his part of the agreement and the conclusion, thus, drawn that he is not entitled to the decree of specific performance of agreement is justified and correct, which do not call for any interference by this Court. There is neither any illegality in the appreciation

C.M. Nos.8798 C of 2014 & 10128 C of 2015 (O&M)
R.S.A. NO.3772 OF 2014

:{ 3 }:

of evidence nor there is any legal flaw, which would persuade this Court to interfere in the concurrent findings recorded by the Courts below.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

C.M. No.8798 C of 2014

Since the main appeal stands dismissed, the application for stay has become infructuous and the same is dismissed as such.

September 01, 2015
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(AUGUSTINE GEORGE MASIH)
JUDGE