

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

RSA No.92 of 2015 (O&M)
Date of decision: 12.3.2015

Pritam Singh (deceased) through his LR

..... Appellant

Versus

Harvinder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Baldev Singh Sodhi, Advocate for the appellant.

RAJESH BINDAL, J

The appellant-defendant is before this Court against the concurrent findings of fact recorded by both the courts below, whereby the suit filed by respondent-plaintiff for possession by way of specific performance of agreement to sell was decreed.

The facts as evident from the record are that an agreement to sell was executed on 10.5.2005 for agricultural land measuring 3 bighas 5 biswas forming part of Khasra No.578 min(2-0), 580 min(1-5) situated in the revenue estate of village Ram Nagar, Tehsil Rajpura, District Patiala, which is part of Khewat No.93 Khatoni No.199 as per Jamabandi for the year 2002-2003 and part of total land measuring 27 bighas 12 biswas, for a total sale consideration of ₹ 3,25,000/- @ ₹ 1,00,000/- per bigha. ₹ 50,000/- were paid as earnest money. Balance was to be paid at the time of registration of sale deed. The last date for registration of sale deed was fixed as 10.11.2005. The vendee remained present before the Sub Registrar on the date fixed for registration of sale deed, however, the vendor did not appear. On failure to get the sale deed executed, the suit was filed on 2.1.2006, which was decreed by the learned trial court vide judgment dated 12.2.2013, which was upheld in appeal by the learned lower appellate court.

The contention raised by learned counsel for the appellant before the courts below was that there was tampering/cutting in the agreement to sell, which had not been signed by the parties. Further plea sought to be raised was that the application filed by the appellant for permission to lead additional evidence was dismissed by the learned lower appellate court. It

was for placing on record the report of the hand writing expert to show tampering/cutting in the agreement to sell. Though plea of undue hardship was sought to be raised before this court, however, learned counsel for the appellant was fair enough to submit that no such plea was raised before the courts below.

After hearing learned counsel for the appellant, I do not find any reason to interfere with the concurrent findings of fact recorded by both the courts below.

The contentions have been fairly dealt with in the impugned judgments and decrees. It was sought to be claimed that the agreement to sell was for 1 bigha 13 biswas of land, which was tampered to 3 bighas 5 biswas. There was cutting even in the khasra numbers. Copy of the agreement was produced in the court. A perusal thereof shows that there is no cutting or over writing in the area of 3 bighas and 5 biswas mentioned in the agreement to sell. The only over writing or correction is evident in the khasra number. It is not in dispute that corrected khasra numbers mentioned in the agreement to sell are owned by the appellant. Once, a bare perusal of the agreement to sell does not show that there is any cutting/over writing in the area agreed to be sold, in my opinion, neither the courts below erred in decreeing the suit nor the learned lower appellate court committed any error in dismissing the application filed by the appellant for permission to lead evidence in the form of hand writing expert while dismissing the appeal.

It is the admitted case of the appellant himself that no plea of undue hardship was raised by the appellant before the courts below, hence, cannot be permitted to argue before this Court. Still further, it is the case of appellant himself that it is not the entire land owned by him rather it is a portion of that.

For the reasons mentioned above, I do not find any merit in the present appeal. No substantial question of law arises.

Dismissed.

(RAJESH BINDAL)
JUDGE

12.3.2015

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