

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

RSA No. 4925 of 2014 (O&M)
Date of decision: September 14, 2015

Vijay Ram

...Appellant

Versus

Dharambir and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers 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?**

Present: Mr. Vikram Singh, Advocate,
for the appellant.

K. KANNAN, J. (Oral)

1. The suit is at the instance of the plaintiff whose claim for specific performance of an agreement dated 3.1.2005 was decreed only for the alternative relief of recovery of earnest money. The sale consideration was ₹6,13,500/- and on the date of the agreement an amount of ₹35,000/- had been paid and the balance was required to be paid before 30.5.2005. The plaintiff got his own presence marked at the registering office in prove of his alleged readiness, but took no action till September, 2006 when he issued a notice demanding specific performance There was an intervening transaction of sale by the vendor, who is the 1st defendant to the other defendants through a registered sale dated 26.12.2005. The suit came to be instituted on 26.9.2006 within the law of limitation. The plaintiff

was pointing out to his own presence at the Registrar's office to prove his readiness and his notice as further affirmation of his readiness and willingness to purchase the property. The Court found the plaintiff's conduct to be affected by laches and declined the plea of specific relief. The trial court dismissed the suit wholly but the appellate court gave the plaintiff a reprieve at least for the refund of the amount paid as advance.

2. The terms readiness and willingness are not empty expressions. They can not be taken as established by mere reference in the plaint. Readiness and willingness, apart being a statutory mandate for expression in the plaint under Section 16 (c) of the Specific Relief Act, must be proved not by the fact of a person being ready but also was willing to purchase. This assumes significance in a case where after 30.5.2005 when he recorded the presence before the Sub-Registrar's office, the plaintiff has allowed inertia to set in not to respond even to a transaction of a sale which the vendor had made through a registered instrument dated 20.6.2005. Unlike in big towns and cities where one transaction may not known, in smaller places, the transaction of a sale is bound to be an event and the plaintiff ought to have taken the defendants' conduct of making a sale as an act in breach of terms of agreement and take immediate action. If not, it would only exhibit the conduct of unwillingness to go through with the transaction with a person who had literally involved him in a litigation by forcing relief against the purchasers, who were not privies to the original contract. There is no explanation offered in the suit or before me as to the reason for inaction between the period 30.5.2005 to 6.9.2006. The courts below have rightly considered the issue and granted only the relief f recovery of earnest

money.

3. I find no ground to interfere with the impugned judgments.

The second appeal being devoid of merit is dismissed.

September 14, 2015
prem

(K.KANNAN)
JUDGE