

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

**RSA No. 5773 of 2014**  
**Date of decision : October 28, 2015**

**Gursewak Singh**

**..... Appellant**

**Versus**

**Gurcharan Singh**

**..... Respondent**

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Aminder Singh, Advocate  
for the appellant.

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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?

**Amit Rawal, J (oral).**

The challenge in the present appeal is against the concurrent finding of fact whereby the suit for specific performance of the agreement to sell dated 18.8.2003 in respect of half share of plot measuring 170 sq.yards has been decreed.

Learned counsel for the appellant-defendant submits that the agreement to sell was with none else but between the brothers and the same was in collusion with other brother Sham Singh. The discretionary relief under Section 20 of the Specific Relief Act, 1963 ought not to have been granted as the partition had already taken place between the parties. Thus, both the courts below have committed illegality and perversity in decreeing the suit.

I have heard learned counsel for the appellant and

appraised the paper book.

The appellant-defendant has categorically admitted his signatures on the agreement to sell. Even the witnesses to the agreement to sell have also deposed in the same lines, and proved execution of the agreement, much less parting of the earnest money of ₹25,000/- stipulated. The suit has been filed on 11.06.2005, when defendant No.1, on perpetual request, failed to perform his part of the agreement.

I do not intend to differ with the finding rendered by the appellate court being the last court of fact and law and which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**October 28 , 2015**  
**archana**