

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

RSA No. 6410 of 2014 (O&M)

Date of Decision: November 02, 2015

Krishan Kumar Sharma

.... Appellant

vs.

Prem Chand and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Ramendher Chauhan, Advocate for the appellant.

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)

Impugned in the present regular second appeal is the judgment and decree dated 31.07.2014 passed by learned Addl. District Judge, Bhiwani, affirming the judgment and decree dated 29.08.2011 passed by learned Addl. Civil Judge (Sr. Divn.), Bhiwani, vide which in a suit for specific performance, alternative relief for recovery was granted and the suit of the plaintiff was decreed for ₹3,80,000/- against defendant Nos.1 and 2 along with interest @ 6% per annum from the date of execution of the agreement to sell till payment.

Briefly stated, according to the plaintiff, defendant No.1 being the owner of land measuring 2 kanals, 5 marlas of land agreed to sell the same to the plaintiff vide agreement dated 10.02.2003 for ₹4,08,375/-. ₹1,90,000/- were paid a earnest money. The sale deed was to be executed on or before 10.08.2003. Defendant No.1 did not

executed the sale deed. The plaintiff appeared before the Sub Registrar, Bhiwani on 11.08.2003 as 10.08.2003 was Sunday and got his presence marked. Subsequently, vide two sale deeds dated 07.10.2005 i.e. sale deed No.5885 in respect of land measuring 2 kanals, 5 marlas was sold in favour of defendant No.2 and another sale deed No.5886 in respect of land of 6½ marlas land was sold in favour of Satish Kumar and Pawan Kumar (defendant Nos.3 and 4).

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

It comes out that after defendant No.1 failed to execute the sale deed on 11.08.2003, which was a working day, the plaintiff waited for nearly two years and filed the suit on 25.11.2005. A legal notice dated 18.08.2003 was issued. The suit was filed only after the land was further sold through sale deeds dated 07.10.2005. In the said intervening period of more than two years two months, the plaintiff did not allege that he made any effort to press defendant No.1 to execute the sale deed.

In these circumstances, the vendor was not required to wait till the expiry of the period of limitation and is justified in further selling the disputed property. Therefore, the alternative relief for recovery was rightly allowed. No substantial question of law arises in the present appeal. Accordingly, the present regular second appeal stands dismissed.

November 02, 2015
sarita

(KULDIP SINGH)
JUDGE