

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

RSA No. 645 of 2014 (O&M)

Date of decision: September 3, 2015

Pehalwan Singh and another

...Appellants

Versus

Jetha Ram

...Respondent

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. Suresh Kumar Aneja, Advocate,
for the appellants.

K. KANNAN, J. (Oral)

1. The defendants who suffered a decree for specific performance before the two courts below are the appellants before this court. The plaintiff sought for enforcement of an agreement to sell dated 12.5.2003, admittedly executed by the defendants but contending that the agreement was vague in its recital. The agreement specifies the land to be measuring 5 kanals 7 marlas being 107/2310 share of total land measuring 115 kanals 10 marlas as detailed in the preamble of the plaint. The objection taken was that the agreement did not specify the khasra numbers or its khatoni and it was vague. The plaintiff had described in the plaint that he was seeking for enforcement of the right of property to secure sale of property in rectangle No. 57 and the defendants contended that they owned property only in rectangle 51 and not 57. However, the matter did not get focused at the trial and there had been no dispute taken at the trial in the cross-examination that

the plaintiff was trying to seek for enforcement of agreement of sale in respect of property of which the defendant was the owner. The court addressed itself on issue of vagueness of the property and rejected the plea and granted the decree. The first lower Appellate Court confirmed the same.

2. The learned counsel reiterates the objections taken already and argues that the proposition of law laid down by this Court is that if the description of the property is vague, the plaintiff cannot obtain specific performance. The reference is to a judgment in Bhagwan Singh and others Vs. Nawab Mohd. Iftikhar Ali Khan and others 1982 CLJ (C&Cr) 629 where it was held that if the agreement is a vague and not definite, specific performance shall not be granted. In yet another judgment in Smt. Babulli (deceased) through Lrs Vs. Smt. Hamidul Bibi (deceased) and others 2010 (1) Civil Court Cases 382 (Allahabad), it was held that a plaintiff cannot have a decree for a property which was not properly described and the agreement will void for uncertainty of property. I do not think these objections or these decisions ought to prevail in a situation where the property sought to be conveyed is certain enough and the counsel himself admits that there had been previously a dispute between the parties when the plaintiff had already obtained a conveyance with respect to 34 kanals 7 marlas and through the instant agreement he obtained the balance of property of 5 kanals 7 marlas in the same rectangle. If the issue relating to the rectangle number was not brought for consideration before the courts below and the defence raised contending a plea that the description was vague and the Court found that it was not, I believe that the matter must rest there and shall not be allowed to be opened now as constituting any

substantial question. Indeed there exists none for consideration.

3. The second appeal is dismissed.

September 3, 2015
prem

(K.KANNAN)
JUDGE