

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

-:-

**R.S.A No. 914 of 2014 (O&M)
Decided on : January 20, 2015**

Gurmeet Singh

... Appellant.

Versus

Dass Ram

... Respondent

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Ajay Pal Singh, Advocate, for the appellant.

Mahavir S. Chauhan, J. (Oral)

C.M No. 226-C of 2015

This is an application for placing on record statements of PW-1 to PW-4 as Annexures A-3 to P-6.

Heard.

C.M is allowed. Documents, Annexures A-3 to P-6 are taken on record subject to all just exceptions.

R.S.A No. 914 of 2014

Judgment/decreed dated 16.12.2013 passed by the learned Additional District Judge, Sangrur, ('first appellate Court' – for short) partly allowing the appeal of respondent which was brought by the respondent against judgment/decreed dated 14.01.2011 passed by Civil Judge (Junior Division), Dhuri ('trial Court'- for short), whereby his suit has been dismissed, is under challenge in this regular second appeal brought by the

defendant.

I have heard learned counsel for the appellant.

It is argued that the Courts below have concurrently held that the plaintiff-respondent has not been able to prove execution of the agreement to sell dated 28.07.2007 and that being so findings of the learned lower appellate Court that the plaintiff-respondent is entitled to receive the earnest money back is erroneous and cannot be allowed to sustain.

A perusal of the judgments recorded by the Courts below, however, would reveal that the agreement in question and payment of earnest money thereunder have been sufficiently proved and learned counsel for the appellant has not been able to show anything to the contrary. Even otherwise, proof of agreement to sell is pure question of fact, which cannot be agitated in the second appeal, more so, when no substantial question of law is shown to be involved therein.

In view of the above, I am not inclined to interfere with the impugned judgment/decree passed by the lower appellate Court.

Dismissed.

C.M. No. 2104-C of 2014

With the dismissal of the main appeal, the application for staying the operation of impugned judgment/decree dated 16.12.2013 has been rendered infructuous and is disposed of accordingly.

January 20, 2015
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[Mahavir S. Chauhan]
Judge