

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

**RSA No.2519 of 2010 (O&M)
Date of decision:22.04.2016**

Mahesh Kumar

... Appellant

Vs.

Baldev Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present:- Mr. Sandeep Jain, Advocate
for the appellant.**

**Mr. D.C.Daulla, Advocate
for the respondent.**

AMIT RAWAL J. (Oral)

The appellant-defendant is aggrieved of the judgment and decree rendered by the Lower Appellate Court, whereby, suit for recovery of ₹1,50,000/- along with interest @ 9%, has been decreed.

Mr. Sandeep Jain, learned counsel appearing on behalf of the appellant-defendant submits that compromise dated 10.02.1997 (Ex.P7) was conditional one as the respondent-plaintiff had agreed to execute the sale deed with liberty to the appellant-defendant to get the registry done either in his name or anybody else. The suit has been instituted in the year 2000 which was not maintainable as the respondent-plaintiff failed to execute the sale deed. The trial Court dismissed the suit by holding that agreement to sell was against the

public policy, much less, the provisions of Section 23 of the Indian Contract Act (in short “the Act”), thus, there is illegality and perversity in the findings rendered by the Lower Appellate Court. He, thus, urges this Court to formulate the substantial questions of law, as culled out in grounds of appeal.

Mr. D.C.Daula, learned counsel appearing on behalf of the respondent-plaintiff submits that once the appellant-defendant had undertaken to pay ₹1,50,000/- and had lost the right to seek the execution of the sale deed, remedy, if any, was to seek recovery of the amount within the prescribed period of limitation, therefore, rightly so, the suit has been decreed. The compromise, aforementioned was not against the public policy, much less, the provisions of Section 23 of the Act. He, thus, urges this Court to affirm the findings rendered by the Lower Appellate Court.

I have heard learned counsel for the parties and appraised the judgments and decrees and as well as, record of the Courts below and of the view that as per the terms and conditions of the compromise dated 10.02.1997 (Ex.P7), the appellant-defendant had agreed to pay a sum of ₹1,50,000/-, failing which, the respondent-plaintiff is entitled to interest @ 18% per annum. Once the appellant has not sought the execution of the sale deed before the competent Court of law and having not filed the counter claim for recovery, the respondent-plaintiff was left with no other option to seek the recovery of amount within a period of limitation. He could not have allowed to sit idle and limitation to expire. In my view, the

agreement to sell has rightly been held not against the public policy.

Keeping in view the aforementioned observations, I do not intend to differ with the findings rendered by the Lower Appellate Court, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

April 22, 2016
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