

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

RSA-2896 of 2012 (O&M)

Date of decision: 22.04.2016

Ramesh Kumar

...Appellant

Versus

Kehar Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Mohan Singh, Advocate for
Mr. S.K. Panwar, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

CM-7786-C-2012

Keeping in view the averments made in the application, which is supported by an affidavit of the appellant, the same is allowed. The delay of 69 days in filing the present appeal is hereby condoned.

RSA-2896-2012

The suit for possession by way of specific performance of agreement to sell dated 24.01.1992, filed by the plaintiff/respondents was decreed by the trial Court, vide judgment and decree dated 14.03.2009.

2. Aggrieved against the findings of trial Court, the

defendant/appellant (for brevity 'the appellant') filed an appeal which was dismissed by the learned 1st Appellate Court, vide judgment and decree dated 23.01.2012.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal has been filed by the defendant/appellant.

4. On behalf of the appellant, it is contended that both the Courts below have misconstrued and misinterpreted the evidence on record. The alleged agreement is stated to be executed on 24.01.1992, whereas the suit was filed after 12 years and the same is barred by limitation. The suit land was taken on lease for 10 years for a consideration of Rs.25,000/- and the appellant has never entered into an agreement to sell as alleged by the respondents.

5. Heard, the learned proxy counsel for the appellant.

6. The appellant has alleged that his signatures were obtained on blank papers under the pretext that the suit property was being taken on lease for a total consideration of Rs.25,000/-. The appellant in his cross examination has stated that the annual rate of the leased land is Rs.2500/- per acre. In that case, it is highly improbable that the respondents took the land for

Rs.25,000/- at that time since lease amount for 3 kanals 17 marlas land for a period of 10 years would be Rs.12,500/-. Further, appellant Ramesh Kumar and DW-2 Surinder Kumar have admitted the signature of the appellant on the alleged agreement to sell. Furthermore, as far as the question of limitation in filing the suit is concerned, the learned Appellate Court has recorded that as per the agreement to sell, Ex.P1, the second party could get the sale deed executed and registered as and when they wished. Thus, it can be inferred that time was not the essence of the agreement to sell. Therefore, the suit is not hit by limitation. The agreement to sell has been duly proved on record and thus, this Courts find no scope for interference with the well reasoned judgments.

7. Therefore, in view of above facts and circumstances of the case, this Court is of the opinion that both the Courts below have rightly dealt with the issues in the right perspective. There are concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties. Therefore, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. Neither any evidence is shown to have been ignored from consideration, nor there is any misreading of evidence.

8. These are pure findings of fact. No question of law, much less substantial question of law, arises in the present appeal.

Dismissed in limine.

22.04.2016

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(JITENDRA CHAUHAN)
JUDGE