

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

Regular Second Appeal No.4882 of 2012 (O&M)

Date of Decision: May 03, 2016

Narayani

.....APPELLANT

VERSUS

Rajbir

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. B.K. Bagri, Advocate
for the appellant.

SURINDER GUPTA, J.

Heard.

This is appeal filed by appellant/defendant-Narayani against the concurrent judgments of Courts below, whereby, suit filed by plaintiff/respondent-Rajbir was decreed for specific performance of agreement to sell dated 14th February, 2005 and the appellant-defendant was directed to execute the sale deed in favour of respondent-plaintiff, within 30 days on deposit of the balance sale consideration.

The case of the plaintiff, in brief, is that on 14th February, 2005, defendant agreed to sell her 3 kanals 12 marlas land @ ₹3,00,000/- per acre, out of land bearing Rect. No.120 killa No.10/1/2(0-17), 10/2(3-3), 11/1(3-3) situated in Village Shahpur Tehsil Bawal, District Rewari and received ₹30,000/- as earnest money. The date for execution and registration of the

sale deed was fixed as 30th April, 2005. On 27.04.2005, defendant received another sum of ₹20,000/- and extended the date for execution of the sale deed upto 30th May, 2005. On the date fixed, plaintiff remained present in the office of Sub Registrar with balance sale consideration, but the defendant did not turn up. He also issued notice, calling upon the defendant to execute the sale deed, which she refused to accept.

In written statement, defendant contested the claim of plaintiff with the plea that he was not ready and willing to perform his part of the contract and was not having balance sale consideration on 30.05.2005, on which date, she remained present in the office of Sub Registrar.

The execution of the agreement and extension of date for execution of the sale deed upto 30th May, 2005, is admitted. The only fact in dispute was as to whether the plaintiff was ready and willing to perform his part of the contract. In order to prove that he remained present in the office of Sub Registrar, the plaintiff placed and proved on record his affidavit Ex.PW4/A. A legal notice dated 14th June, 2005, was also issued by plaintiff, which the defendant-appellant admittedly refused to accept. The suit was filed on 2nd July, 2005 i.e. within 33 days of the date fixed for execution and registration of the sale deed. Keeping in view the above facts and circumstances, both the Courts have rightly concluded that the plaintiff has been able to prove his readiness and willingness to perform his part of the contract.

Learned counsel for the appellant has argued that the plaintiff had not purchased the stamp papers required for registration of the sale deed, which shows that he was not having ready money to pay the balance sale

consideration.

The above argument of learned counsel for the appellant carries no weight, as the plaintiff had proved on file that on the next date i.e. 01.06.2005, a property was purchased from Chhaju Singh s/o Mothu (PW8) who had executed the sale deed in favour of Gyarsa Ram, father of plaintiff. The stamp papers for registration of sale deed are to be purchased, when the vendor is ready and willing to perform his part of the contract and execute the sale deed.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

May 03, 2016
deepak/jv

(SURINDER GUPTA)
JUDGE