

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

RSA-5138-2012

Date of decision : 19.10.2016

Satish Kumar Chauhan and others

... Appellants

Versus

Rattan Lal

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vaneet Soni, Advocate
for the appellants.

Mr. Himanshu Puri, Advocate
for the respondent.

AMIT RAWAL, J. (ORAL)

The appellants-defendants are aggrieved of the concurrent of findings of fact and law, whereby the suit of the respondent-plaintiff seeking specific performance of the agreement to sell dated 25.08.2002 in respect of land measuring 3 kanals for a total sale consideration of ₹ 4,50,000/- against the receipt of the earnest money of ₹ 85,000/-, has been decreed by both the Courts below.

Mr. Vaneet Soni, learned counsel appearing on behalf of the appellants-defendants submits that the alleged scribe of the agreement to sell, Om Parkash appeared as DW2 and did not support the case of the respondent-plaintiff. Both the Courts below have abdicated in not referring to the statement, thus, there is illegality and perversity. PW-1 Raghubir Singh-other attesting witness in cross-examination admitted that he purchased the land measuring 350 square yards from the plaintiff, therefore,

he was also interested party. In fact, the vendor and the vendee are none-else, but the real brother and the sister and trust upon the brother has been breached. The signatures on the agreement to sell meant for the other purposes and the party did not have any intention to enter into the agreement to sell. All these facts have escaped to the notice of both the Courts below, thus, urges this Court for setting aside the findings under challenge.

Per contra, Mr. Himanshu Puri, learned counsel appearing on behalf of the respondent-plaintiff submits that no doubt there was a complete denial of the agreement to sell in the written statement, but in cross-examination of DW-1, surfaced that the vendor had gone to the office of the Registrar on the target date i.e. 11.11.2002. It itself shows that he had intended to enter into agreement to sell and there was no other land, for which, the defence had been taken. The concurrent findings of fact cannot be interfered until and unless there is a gross illegality and perversity and urges this Court for affirming the findings under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no merit in the submissions of Mr. Vaneet Soni, as there is a categoric admission of DW-1 that the vendor had had gone to the office of Registrar on the target date i.e. 11.11.2002. It itself shows that the party had intended to enter into agreement to sell and there is no other piece of land, for which, the defence had been taken, thus, for all intents and purposes, the party had intended to enter into agreement to sell. The readiness and willingness has also been proved to the hilt as the suit was filed on 05.03.2003. Even if the scribe was not supported the case of the respondent-plaintiff, it would not be fatal to the case of the plaintiff in

view of the admission of the son of the defendant(s) i.e. DW-1 as noticed above.

For the foregoing reasons, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination and accordingly, the appeal is dismissed.

19.10.2016
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No