

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

RSA No.5258 of 2012  
Date of decision : 01.03.2016

Makhan Singh

...Appellant

Versus

Ajit Singh and ors.

...Respondents

**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. Kanwal Goyal, Advocate for the appellant.

Mr. Sarabjit Singh, Advocate for respondent Nos.3 and 4.

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**AMIT RAWAL, J. (Oral)**

The appellant-plaintiff is aggrieved of the concurrent findings of fact, whereby suit for specific performance of the agreement to sell has been decreed and he has been held entitled to refund of earnest money of ₹75,000/- alongwith interest @ 9% per annum from the date of agreement to sell till the date of filing of the suit and future interest @ 6% per annum on principle amount of ₹75,000/- from the date of filing of suit till realization of decretal amount.

Mr. Kanwal Goyal, learned counsel appearing on behalf of appellant submits that Darshan Singh-defendant No.1 entered into

agreement to sell dated 30.01.2003 for sale of land measuring 8 kanals at the rate of ₹3 lacs per acre against the receipt of earnest money of ₹75,000/-. Initially, the stipulated date for registration and execution of the sale deed was 30.01.2004 which was mutually extended on 02.01.2004, from 30.01.2004 to 30.01.2005. 30<sup>th</sup> being holiday, the appellant-plaintiff appeared before the office of Sub-Registrar on 31.01.2005. Later on, defendant Nos.1 and 2 purchased the aforementioned land along with share of other co-sharer vide sale deed dated 11.07.2005.

Both the Courts below have failed to advert to the documentary evidence on record which irresistibly leads to conclusion that the defendants are not bonafide purchaser. Darshan Singh did not appear and filed written statement whereas on going through the entire written statement of defendant Nos.2 and 3, no such plea of loan transaction has been taken yet the Court has embarked upon a path which was beyond the pleadings. Thus urges to this Court to formulate question of law to be determined by this Court.

Mr. Sarabjit Singh, learned counsel appearing on behalf of respondent Nos.3 and 4 submits, that readiness and willingness on the part of the appellant-plaintiff was wanting as suit was filed on 09.02.2006. This plea can be taken in the absence of the specific stand in the written statement. The plaintiff has failed to give any reasons/explanation of not filing the suit immediately after 31.01.2005 and rightly so held for recovery of earnest money which has to be paid to Darshan Singh. However, urges that no substantial question of law arises against the concurrent findings of fact.

I have heard learned counsel for the parties and appraised the paper book and of the view that the appeal deserved to be dismissed for the reasons that appellant-plaintiff has failed to prove by leading the direct and cogent reasons in not approaching the Court with promptitude. Suit is not preceeded by any legal notice, in essence, it appears that plaintiff was not ready and willing to perform his part of the agreement. The respondent-defendant Nos.2 and 3 being subsequent vendees acquired the title alongwith big chunk of land. Revenue record shows the ownership of the property in favour of Darshan Singh and on acquiring of the same, sold the land. In the absence of the readiness and willingness, both the Courts below have rightly granted the alternative relief instead of exercising discretion under Specific Relief Act.

I do not find any illegality and perversity in the impugned judgment and decree, much less, no substantial question of law arises for determination by this Court.

Appeal stands dismissed.

**01.03.2016**

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**(AMIT RAWAL)  
JUDGE**