

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.2930 of 2013 (O&M)

Date of Decision: October 04, 2016

Mehal Singh

...Appellant

Versus

Gobinder Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Ajay Pal Singh, Advocate,
for the appellant.

Mr.S.D.Sharma, Senior Advocate with
Mr.Ved Priya Malik, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Appellant-defendant is aggrieved of the concurrent findings of fact, whereby the Court has used the discretion under Section 20 of the Specific Relief Act for granting specific performance of the agreement to sell dated 23.5.2002.

Mr.Ajay Pal Singh, learned counsel for the appellant-defendant submits that the defendant is owner to the extent of half share of land measuring 10 bighas 10 biswas. Respondent-plaintiff on 5.12.2003 instituted the suit seeking specific performance of the aforementioned agreement to sell. The target date was 28.11.2003 and the rate agreed for was ₹40,000/- per bigha against the earnest money of ₹5,00,000/-. There were two witnesses and the scribe, but only one witness, namely, Major Singh, who is none else but the brother-in-law of Jaswant Singh, who is

partner in the partnership firm has been examined. The antecedents of the respondent-plaintiff are that he is facing an FIR in respect of plot, which itself reveals that he had been indulging into using blank papers and converting the same into agreement to sell as categoric stand taken in written statement was that the blank papers have been misused. All these factors have not been taken into consideration by both the Courts below, much less the of earnest money of ₹5,00,000/- and, therefore, the Courts ought not to have exercised the discretion.

Mr.S.D.Sharma, learned Senior Counsel assisted by Mr.Ved Priya Malik, Advocate, representing respondent No.1 submits that the agreement to sell has been proved through the testimony of Major Singh and as well as the plaintiff. Detailed cross-examination was conducted, but nothing surfaced. The suit had been filed immediately after the expiry of target date, i.e., on 5.12.2003, therefore, readiness and willingness has been proved. The concurrent findings cannot be interfered with unless and until there is a gross illegality and perversity, which the respondent-plaintiff has not been able to make out.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submission of the learned counsel for the appellant-defendant, for, nothing prevented the appellant-defendant to disprove the signatures on the blank papers or lead any evidence regarding the age of the signature, contents of the agreement and that the same had been written on a blank paper. On the contrary, Handwriting Expert had proved the thumb impression of the appellant-defendant. No sane person can sit idle on receipt of the copy of the notice, particularly, where he actually had not signed the agreement. He

would raise hue and cry by running from pillar to post in seeking vindication of his grievance either through criminal process or otherwise. No steps have been taken, where there is a complete recital from the act intended to be done through the agreement to sell.

For the foregoing reasons, I do not intend to differ with the concurrents findings, which are based upon appreciation of oral and documentary evidence. No substantial question of law arises for determination. No ground for interference is made out.

Appeal stands dismissed.

October 04, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No