

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

**RSA No.339 of 2013 (O&M)
Decided on: 05.05.2016**

Om Parkash

....Appellant

Versus

Chander Kant

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. P.K.S. Phoolka, Advocate
for the appellant.

Mr. D.D. Bansal, Advocate
for the respondent.

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

REKHA MITTAL, J.

The present appeal has been directed against the consistent findings recorded by the Courts below whereby suit filed by the respondent/plaintiff for possession by way of specific performance of an agreement to sell dated 24.06.2004 in respect of land measuring 04 biswas described in headnote of the plaint has been decreed and the findings recorded by the learned trial Court have been affirmed in appeal.

Chander Kant, the respondent/plaintiff staked his claim to the suit property on the premise that the appellant/defendant entered into agreement to sell dated 24.06.2004 for a sale consideration of

Rs.1,60,000/- and received Rs.40,000/- towards earnest money and the sale deed was agreed to be executed up to 23.09.2004. It was further averred that the respondent always remained ready and willing to perform his part of the agreement but the defendant/appellant committed breach thereof.

The learned trial Court after bestowing its thoughtful consideration to rival submissions made by counsel for the parties in the light of material on record accepted plea of the respondent/plaintiff in regard to execution of the agreement to sell by the appellant/defendant as well as he being entitled to specific performance of the agreement subject to deposit of balance sale consideration within a period of one month. As has been noticed hereinbefore, the Court in appeal concurred with the findings of the learned trial Court without any variance.

Counsel for the appellant has submitted that the findings recorded by the Courts below are illegal, erroneous, against law and facts and liable to be set-aside. It is further submitted that the Courts have given undue weightage to untrustworthy and incredible evidence of the respondent while evidence adduced by the appellant/defendant has been ignored without any cogent reason. It is prayed that the judgments and decrees passed by the Courts below are liable to the set-aside.

Counsel for the respondent, on the other hand, has submitted that consistent findings of fact recorded by the Courts below can be interfered with only if the same are found to be perverse.

Another submission made by counsel is that keeping in view the scope of intervention in exercise of jurisdiction under Section 100 of the Code of Civil Procedure, the second appeal can be admitted only if it gives rise to a substantial question of law for adjudication. In addition, it is argued that counsel for the appellant except making general and sweeping contentions has failed to point out any error much less illegality in the impugned judgments.

I have heard counsel for the parties and perused the records with their able assistance.

Counsel for the appellant has failed to point out any materials on record to substantiate his contention that the judgments and decrees passed by the Courts below suffer from error, illegality much less perversity. He has further failed to point out as to how the Courts below have committed any mistake while appreciating the evidence on record. In this view of the matter, I find merit in arguments of counsel for the respondent that there is no substance in the contention of the appellant nor the present appeal raises any question of law much less a substantial one warranting admission much less acceptance.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

05.05.2016
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(REKHA MITTAL)
JUDGE