

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

RSA No.348 of 2013 (O&M)
Date of decision : 16.02.2016

Kartar Kaur

...Appellant

Versus

Sandeep Singh

...Respondent

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. S.K. Jain, Advocate for the appellant.

Mr. Amrinderjit Singh, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

CM No.980-C of 2013

The application is allowed as deficiency in Court fees has been made good subject to all exceptions.

Applications stands disposed of.

CM No.981-C of 2013

For the reasons stated in the application, which is duly supported by an affidavit, delay of 1152 days in refiling of the present appeal is condoned.

Application is allowed.

Main case

The appellant-defendant is aggrieved of the judgment and decree of the lower Appellate Court, whereby suit filed by respondent-plaintiff seeking specific performance of the agreement to sell dated 16.01.2001 in respect of land measuring 7 kanals 12 marlas comprised of Killa No.62//18/1 (7-12) situated at Village Kharak Singh Wala, Tehsil Mansa, has been decreed.

Mr. S.K. Jain, learned counsel appearing on behalf of appellant-defendant submits that it is admitted case of plaintiff that at the time of execution of the agreement to sell, plaintiff was not able of executing the same. Noticing this fact, the trial Court dismissed the suit, however lower Appellate Court has committed illegality and perversity in not pressing the aforementioned issue while decreeing the suit. He further submits the fact that the plaintiff is minor, had been averred in the suit. He further submits that contract was contingent as there was litigation between the father of the respondent-plaintiff and one Bachno and thus, the aforementioned fact having not noticed by the lower Appellate Court while accepting the appeal and decreeing the suit and involved adjudication of substantial question of law arises for determination by this Court.

Mr. Amrinderjit Singh, learned counsel appearing on behalf of respondent-plaintiff submits that lower Appellate Court being last Court of fact, noticed the aforementioned facts and found that there was readiness and willingness on the part of the respondent-plaintiff as on the target date i.e. on 16.01.2004, the plaintiff was present and he attained majority and this fact has been proved through the statement of Angrej Singh PW6,

Registry Clerk of the Sub-Registrar as per endorsement Ex.PW6/A and the application submitted by the plaintiff. Even the draft of ₹75,000/- dated 15.01.2001 was prepared, and prays for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book.

The agreement to sell has been proved through the testimony of attesting witnesses PW3 Kuldip Singh Chahal, Notary Public who stated on oath about the attestation of the agreement to sell executed by Kartar Kaur in favour of Sandeep Singh. An entry in this regard was made at Sr. No.205. Kartar Kaur also appended thumb impression on the register and admitted receipt of ₹60,000/-. Babban Singh-PW4 also deposed this fact in the cross-examination. Except self-serving statement of Kartar Kaur, no other witness has been examined. The denial of the agreement to sell has not been proved by examining any expert vis-a-vis her thumb impression on the agreement to sell. The plaintiff had showed/proved readiness and willingness by examining PW6 Angrej Singh, Registry Clerk.

In view of what has been observed above, I do not intend to differ with the findings rendered by lower Appellate Court which are based upon appreciation of oral and documentary evidence. Even otherwise, plaintiff had become major, therefore, Vendee being minor at the time of agreement to sell does not sound logic, much less, no substantial question of law arises for determination by this Court.

Accordingly, appeal is dismissed.

16.02.2016

pawan

(AMIT RAWAL)
JUDGE