

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

RSA-1468 of 2016 (O&M)

Date of decision: 04.04.2016

Manohar Lal

...Appellant

Versus

Vinod Gupta

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Daman Jeet Bhoriwal, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

The respondent/plaintiff (for short 'the respondent') filed a suit for decree of possession by way of specific performance of an agreement to sell dated 23.04.2009. The trial Court vide judgment and decree dated 25.08.2014, decreed the suit.

2. Aggrieved against the findings of trial Court, the appellant/defendant (for brevity 'the appellant') filed an appeal which was dismissed by the learned Appellate Court, vide judgment and decree dated 05.01.2016.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal at the behest of the appellant.

4. The only argument raised on behalf of the appellant is that the appellant never executed an agreement to sell dated 23.04.2009 qua H.No.DS5/19, situated in Tahli Mohalla, Ferozepur City and rather, it was executed as security for the purpose of loan amount of Rs.1 lakh @ 7% interest per annum. In fact, the respondent had obtained the signature of the appellant on back side of stamp papers and later on, he tampered with the same to give it the shape of an agreement to sell. Further, the suit of the respondent was not properly valued, therefore, the same was liable to be rejected under Order 7 Rule 11 of Civil Procedure Code. However, both the Courts below have erred in ignoring the above facts on record.

5. Heard, the learned counsel for the appellant and perused the record.

6. The case of the respondent is that the appellant entered into an agreement to sell dated 23.04.2009 qua H.No. DS 5/19, situated at Tahli Moalla, Ferozepur City, measuring 3.57

marlas being 1/3rd share out of total land measuring 10.73 marlas, for a total sale consideration of Rs.3,50,000/- A sum of Rs. 1 lakh was paid as earnest money. The agreed date for execution of sale deed was fixed as 24.10.2009. On the request of appellant, the date for execution of sale deed was extended upto 24.11.2009 and a writing to this effect was also recorded. As 24.11.2009 was a holiday, therefore, the respondent visited the office of Sub Registrar, Ferozepur on 25.11.2009 with balance sale consideration and remained there upto 9 am to 5 pm but the appellant did not turn up to perform his part of contract. Per contra, the appellant had refuted all the assertions raised by the respondent and alleged that the agreement to sell dated 23.04.2009, was executed towards security of loan transaction of Rs.1 lakh.

7. The respondent in order to prove his claim had proved the agreement to sell Ex.P2 and endorsement Ex.P3. The appellant had duly admitted his signatures on Ex.P2 and Ex.P3, in token of its correctness. Further, the perusal of endorsement of the stamp vendor on the stamp papers reveals that the same had been purchased by the appellant himself and the same bears his signatures. The affidavit of the respondent, Ex.P1, duly indicated

his presence before the office of Sub Registrar to perform his part of contract. The appellant had alleged that his signatures were obtained on back side of stamp paper, whereas the signatures on agreement is with black ink and on back page of agreement it is with blue ink. Thus, both the Courts have rightly doubted the intention of the appellant. There are concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties. Therefore, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. Neither any evidence is shown to have been ignored from consideration, nor there is any misreading of evidence.

8. These are pure findings of fact. No question of law, much less substantial question of law, arises in the present appeal.

Dismissed in limine.

04.04.2016

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(JITENDRA CHAUHAN)
JUDGE