

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

RSA No.27 of 2016 (O&M)

Date of Decision.09.12.2016

Bant Singh (now deceased) through LRs

.....Appellant

Vs

Ranjit Singh (now deceased) through LRs

.....Respondent

Present: Mr. Gopal Singh Nahel, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.66-C of 2016

For the reasons stated in the application, delay of 31 days in
refiling the appeal is condoned.

Application is allowed.

C.M. No.67-C of 2016

For the reasons stated in the application, delay of 175 days in
fling the appeal is condoned.

Application is allowed.

RSA No.27 of 2016

The appellant-defendant is aggrieved of the concurrent finding
of fact whereby the suit seeking specific performance of agreement to sell
dated 16.10.2006 in respect of the suit land measuring 10 bighas and 10
biswas, agreed to be sold for total sale consideration of ₹17 lacs against the
payment of earnest money of ₹2,50,000/-, has been decreed by both the
Courts below.

Mr. Gopal Singh Nahel, learned counsel appearing for the

appellant submits that the terms and conditions of the agreement were sacrosanct between the parties. It was duty and liability of the plaintiff/vendee to discharge the loan liability as the property in dispute was subject to loan. Having failed to do so, he did not perform his part of the agreement and therefore, discretion under Section 20 of the Specific Relief Act ought not to have been granted. No doubt, the execution of the agreement to sell was admitted, much less, the receipt of the earnest money and therefore, there is gross illegality and perversity, thus, urges this Court for setting aside the judgments and decrees under challenge.

He further submits that the appellant is willing to compensate the respondent-plaintiff in terms of money subject to any terms and conditions over and above the agreement, in case this court deem it appropriate.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Nahel, for, in the suit for specific performance of agreement to sell, contents of the agreement have to be seen which clearly specifies that the loan liability is to be discharged by the defendant, thus, the plea taken was nothing but to prolong the decision of the suit and tire out the plaintiff. Readiness and willingness on the part of the plaintiff has been proved as the stipulated date for registration and execution of the sale deed was 31.12.2006 and the suit was filed on 07.04.2007, rightly, the Courts below have granted discretion under Section 20 of the Specific Relief Act, 1963.

For the reasons aforementioned, I do not intend to differ with the findings rendered by the Courts below as the same are based upon correct appreciation of documentary as well as oral documents. No ground

for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 09, 2016
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No