

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

RSA No.2992 of 2016 (O&M)

Date of Decision.04.10.2016

Sukhbir Singh

.....Appellant

Vs

Sharanjeet Kaur and another

.....Respondents

Present: Mr. Baltej Singh Sidhu, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.7996-C of 2016

For the reasons stated in the application, delay of 23 days in
refiling the appeal is condoned.

Application is allowed.

C.M. No.7998-C of 2016

For the reasons stated in the application, permission for making
good the deficiency of court fee is granted.

Application is allowed.

RSA No.2992 of 2016 (O&M)

The appellant-plaintiff is aggrieved of the dismissal of the suit
seeking symbolic possession and specific performance of agreement to sell
dated 14.07.2004 whereby the amount agreed in the agreement i.e.
₹40,000/- has been paid.

Mr. Baltej Singh Sidhu, learned counsel appearing for the
appellant submits that the Courts below have declined the relief on the
ground that the defendant was one of the co-owners of the property and not
the absolute owner. The defendant appeared and filed written statement

denying the agreement to sell but thereafter proceeded ex parte. The Court could have believed the un-rebutted statement of the plaintiff. All these facts escaped notice of the Courts below, thus, urges this Court for setting aside the judgments and decrees passed by the Courts below by formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard learned counsel for the appellant and appraised the paper book. To prove the agreement to sell, the requirement of law under Section 68 of the Indian Evidence Act has not been satisfied. At least one attesting witness has to be produced/examined for proving the agreement to sell and possession. In the absence of the same, the Courts would not believe the self-serving statement of the plaintiff that he was/is in possession. The target date was 15.01.2005 and the suit was filed on 14.12.2005.

For the foregoing reasons, I am of the view that the relief of symbolic possession and specific performance could not have been granted, rightly, so the Courts below have dismissed the suit. I do not find any reason to differ with the judgments and decrees under challenge, much less, no substantial question of law arises for consideration. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 04, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No