

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

**RSA No.3053 of 2016 (O&M)**

**Date of Decision.29.07.2016**

Sukhdev Singh

.....Appellant

Vs.

Parmatma Devi

.....Respondent

Present: Mr. Gaurav Singla, Advocate  
for the appellant.

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

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?

-.-

**AMIT RAWAL J. (ORAL)**

**C.M. No.9582-C of 2016**

Application is allowed.

Amended grounds of appeal are taken on record.

**RSA No.3053 of 2016**

The appellant-defendant is aggrieved of the judgment and decree rendered by the lower Appellate Court whereby the suit of the respondent-plaintiff seeking execution of the sale deed 13.07.2010 by way of registration has been decreed.

Mr. Gaurav Singla, learned counsel for the appellant-defendant submits that the trial Court dismissed the suit but the lower Appellate Court has reversed the finding of the trial Court merely on conjectures and surmises. The attesting witness in the cross-examination spilled the beans by stating that no consideration was passed in his presence. In fact, the appellant-defendant had entered into agreement to sell dated 15.04.2010

with the son of plaintiff namely Balbir Singh regarding 8 biswas of land. However, only the photocopy has been produced on record, not the original one. The thumb impression of the defendant on the sale deed which was got registered was denied in view of the fact that the appellant-defendant had gone to the office of the Registrar in pursuance of the agreement to sell dated 15.04.2010 but later on, realized that the plaintiff has prepared sale deed dated 13.07.2010 by alleging payment of entire consideration of ₹77,000/-. The suit land is 2 biswas whereas the land in the aforementioned agreement to sell dated 15.04.2010 is 8 biswas. The appellant-defendant has also led in evidence with regard to fraud and misrepresentation but all these facts, have not been appreciated by the lower Appellate Court and therefore, there is illegality and perversity in the judgment and decree passed by the lower Appellate Court, thus, urges this Court for setting aside of the same by formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard learned counsel for the appellant, appraised the paper book and of the view that the defendant has failed to disprove his thumb mark on the sale deed. The defendant also executed an affidavit regarding no objection of sanctioning of mutation in favour of the plaintiff but when he was asked to sanction the mutation, he refused to do so. In these circumstance, the aforementioned suit was instituted.

Even otherwise, as regards the aforementioned agreement to sell dated 15.04.2010, it has been found that only photocopy of the same has come on record. One line in the cross-examination of the attesting witness would not be read against the plaintiff as the entire cross-examination in conjunction with the examination-in-chief has to be read. Once the

defendant has failed to disprove his thumb mark on the agreement to sell, I am of the view that provisions of Order 6 Rule 4 CPC had not been complied with.

It is in these circumstances, the lower Appellate Court, being the last court of facts and law, reversed the finding of the trial Court. I do not find any illegality and perversity in the judgment and decree passed by the lower Appellate Court, much less, there is no substantial question of law arises for consideration. The second appeal is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**July 29, 2016**  
Pankaj\*

Whether speaking/reasoned      Yes

Whether reportable                No