

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

RSA No.3321 of 2016 (O&M)

Date of Decision.26.10.2016

Improvement Trust Khanna through its ChairmanAppellant

Vs

M/s Parks Township Pvt. Ltd. and anotherRespondents

Present: Mr. Neeraj Sharma, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the suit for possession of the land measuring 2500 sq. yards mentioned in the agreement dated 19.03.2007, has been dismissed.

Mr. Neeraj Sharma, learned counsel appearing for the appellant-plaintiff submits that the suit aforementioned was filed for construction of community centre out of the land measuring 112 kanals 6 marlas on the premise that it had intended to promulgate the scheme known as Shaheed Sukhdev Estate with respect to 46 acres. Though the scheme was dropped, the respondents-defendants were required to honour the aforementioned agreement. Having failed to do so, the suit aforementioned was filed, but both the Courts below have dismissed the suit in most erroneous and perverse manner holding that when the scheme had been dropped, there was no occasion for the appellant-plaintiff to seek possession of the property. The Courts below have heavily relied upon the testimony of DW1, particularly, his cross-examination with regard to passing of the resolution. Had all these facts taken into consideration, the result of the suit

would have entailed into decretal of the same, thus, there is illegality and perversity.

I have heard learned counsel for the appellant, appraised the paper book and of the view that DW1, appeared in the witness box, did not support the averments in the plaint as to a specific question in cross-examination, he replied that there was no resolution of the meeting of the Improvement Trust held on 19.03.2007. Once there was no resolution, the Improvement Trust cannot on its own enter into agreement of purchase of land. In fact, the agreement, in my view, was totally illegal and null and void, rightly so, the Courts below have not ordered for its execution in the manner and mode as sought by the appellant-plaintiff. Once the scheme had been dropped and the appellant-plaintiff did not take any steps for execution of the agreement to sell, I am of the view that the agreement stood frustrated as per the provisions of Section 56 of the Contract Act.

For the reasons aforementioned, I do not intend to differ with the finding rendered by both the Courts below as the same are based upon correct appreciation of fact and law, 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 26, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No