

**C.M.Nos.13123-24-C-2016 in/and
RSA No.3727 of 2015 (O&M)**

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

**C.M.Nos.13123-24-C-2016 in/and
RSA No.3727 of 2015 (O&M)
Date of decision:06.10.2016**

Jabbar and another

... Appellants

Vs.

Smt. Samta Yadav

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajesh Lamba, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.13123-C of 2016

For the reasons stated in the application, duly supported by an affidavit, delay of 275 days in filing the application for restoration of the appeal, is condoned.

C.M. stands disposed of.

C.M.No.13124-C of 2016

For the reasons stated in the application, duly supported by an affidavit, the order dated 30.11.2015 is recalled and the appeal is restored to its original number.

C.M. stands disposed of.

RSA No.3727 of 2015 (O&M)

The appellant-plaintiffs are aggrieved of the concurrent findings of facts and law, whereby, the suit for declaration and permanent

injunction, has been dismissed.

Mr. Rajesh Lamba, learned counsel appearing on behalf of the appellant-plaintiffs submits that in the first week of January, 2012, the defendant, her husband and 3 other persons approached the plaintiffs for purchasing the suit land and entered into an agreement to sell with the terms and conditions that defendant-respondent will pay a sum of ₹9.85 lacs to the plaintiffs at the time of registration of the sale deed subject to outcome of the Regular Second Appeal stated to be pending in this Court. He further submits that in case, the finding would be against the defendant, then the plaintiffs would return the amount along with interest @ 1%. On 09.01.2012, the plaintiffs appeared before the office of Sub Registrar along with defendant for getting registered the agreement to sell and defendant paid a sum of ₹9,85,000/- in cash to the plaintiff but the plaintiffs being illiterate persons taking advantage of the same, resulted into execution of the alleged sale deed. It is in this background of the matter, the suit aforementioned was filed, much less, the aforementioned facts have not been noticed by the Courts below.

I have heard learned counsel for the appellant-plaintiffs and appraised the judgments and decrees of the Courts below and of the view that the registered document carries a presumption of truth. The ingredients of fraud as per the provisions of Order 6 Rule 4 of Code of Civil Procedure are conspicuously wanting. In fact, the case of the defendant is to be believed that after the execution of the sale deed, the appellants had entered

into agreement to sell with Braham Parkash. It is in this aspect of the matter, an FIR No.515 of 2012 got registered under Sections 420, 467, 468, 471 and 120-B of Indian Penal Code. Filing of the suit was nothing but an act of aggrandizement

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

**(AMIT RAWAL)
JUDGE**

October 06, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No