

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

**RSA No.4316 of 2015 (O&M)
Date of decision:08.02.2016**

Lakho (since deceased) through LRs & another ... Appellants

Vs.

Jarnail Singh and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Vipin Mahajan, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.10407-C-2015

The application is allowed, subject to all just exceptions.

Legal representatives of deceased Lakho, who, was appellant No.2 in appeal before the Lower Appellate Court, as mentioned in the application, are ordered to be brought on record for the purpose of prosecuting the present appeal.

RSA No.4316 of 2015 (O&M)

The appellant-defendants are in Regular Second Appeal against the decretal of the suit seeking specific performance of the agreement to sell dated 14.10.2003, vide which they have been called upon to execute and register the sale deed on receipt of

balance sale consideration.

Mr. Vipin Mahajan, learned counsel appearing on behalf of the appellant-defendants submits that agreement to sell is of 14.10.2003 but it has come in the evidence that stamp papers were purchased in the month of February, 2003 and agreement has been executed by Lakho and Mohinder Singh. As per cross-examination of the plaintiff, Lakho was not present and it caused serious doubt qua its execution, thus, the Courts below ought not to have exercised discretion under Section 20 of the Specific Relief Act. Even otherwise, defendant No.3 had entered into agreement to sell on 28.07.2003, i.e., prior to the one in dispute. He prayed that matter may be remanded back to the Court below with liberty to lead evidence, thus, prays for setting aside of the impugned judgments and decrees of the Courts below, much less, submits that substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellant-defendants and appraised the impugned judgments and decrees of the Courts below.

The appellant-defendants have failed to lead evidence vis-a-vis prior agreement to sell, much less, lead any corroborative evidence qua thumb impressions of Lakho, on the agreement to sell, in essence, no evidence has been led to belie the statement of the attesting witnesses, much less, that of the plaintiff vide which act of entering into agreement, *ibid*, much less, receipt of earnest money,

as well as, readiness and willingness has been proved. The plea of Mr. Mahajan, for remanding the matter back is hereby rejected as it tantamounts to filling up the lacuane in the absence of any evidence, much less, would lead to denovo trial. Even otherwise, no such application has been filed before this Court for placing on record the documents by way of additional evidence.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, 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

February 08, 2016

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