

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

RSA No.5466 of 2015 (O&M)

Date of decision : 14.09.2016

Manjit Singh and others

...Appellants

Versus

Lakhbir Singh

..Respondent

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

Present: Mr. Sharad Mehra, Advocate for the appellants.

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**AMIT RAWAL, J. (Oral)**

The appellants-defendants are aggrieved of the concurrent findings of the fact, whereby suit for recovery of Rs.6,20,000/- i.e. Rs.3,10,000/- as principal earnest money and Rs.3,10,000/- as damage along with interest @ 18% p.a. w.e.f. 19.06.2008 till realization of amount, has been decreed.

Mr. Sharad Mehra, learned counsel appearing on behalf of appellants-defendants submits that an application under Order 41 Rule 27 read with Section 151 CPC bearing No.12192-C of 2016, had been filed to produce copy of Fard Haqiat of 2010-2011 as an additional evidence to show that the property is still in their name and vis-a-vis allegation that the defendants had already sold the property, and therefore, suit seeking recovery of the amount in pursuance of the agreement to sell dated

19.06.2008 could not be decreed. He further submits that Dalbir Singh attesting witness in the cross-examination also stated that at the time of the entering into the agreement to sell, defendants were owner of the land measuring 8 kanals 13 marlas. Deed Writer was also cross-examined and stated that he saw jamabandi at the time of execution of the agreement to sell and urges this Court for setting aside of the judgment and decree under challenge.

I have heard learned counsel for the appellants-defendants and appraised the paper book and of the view that there is no force and merit in the submissions, for, conceded position on record is that the agreement to sell dated 19.06.2008 is in respect of land measuring 8 kanals 13 marlas as described in the head note of the suit. Sale consideration at the rate of Rs.30,00,000/- per acre was agreed. The stipulated date for the execution and registration of the sale deed was 19.12.2009. The stand of the plaintiff in the suit is that on making inquiry found that father of the defendants was owner to the extent of 1/3<sup>rd</sup> share and had already sold the entire land and, therefore, there was no saleable interest preceding to the legal notice dated 01.09.2009. If at all there is some truth in the allegation of the defendants, same could have been rebutted. The Courts below found that agreement to sell had been proved, much less, payment of Rs.3,10,000/-. Since defendants had no saleable interest, therefore, Courts below rightly granted the benefit of damages in terms of money. In jamabandi Ex.P12, father of defendants is shown as joint owner to the extent of 1/3<sup>rd</sup> share of land measuring 121 kanals 5 marlas. Entry made in column No.5 shows that Harbans Singh had sold considerable portion of the share. It is in this

background of the matter, suit had been filed.

I do not find any illegality and perversity in the concurrent findings of fact based upon appreciation of oral and documentary evidence. Even no ground for placing on record documentary evidence by way of additional evidence at this stage is made out. It is too late in day.

No ground for interference is made out.

Accordingly, regular second appeal as well as application for additional evidence are dismissed.

**14.09.2016**

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**(AMIT RAWAL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**