

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

RSA No.751 of 2016 (O&M)

Date of decision : 25.07.2016

Jodha Singh

...Appellant

Versus

Gurnam Singh (deceased) through LRs and others

...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. B.P.S. Virk, Advocate for the appellant.

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

The appellant-defendant No.1 is aggrieved of the concurrent findings of fact, whereby suit at the instance of the plaintiff for recovery of ₹2,81,250/- (i.e. 1/4<sup>th</sup> share of earnest money of ₹11,25,000/-) along with interest at the rate of 6% p.a. from 25.10.2005, has been partly decreed.

Mr. B.P.S. Virk, learned counsel appearing on behalf of appellant-defendant No.1 has raised following multi-fold arguments:-

- i) Gurdev Singh-plaintiff was not signatory of the agreement to sell.
- ii) He did not step into the witness-box only his son stepped into the witness-box who also did not come forward for cross-

examination.

- iii) The aforementioned document thus has not been proved as no independent witness has been examined.
- iv) The aforementioned agreement to sell was cancelled as per the endorsement on the back of the agreement to sell and, therefore, nothing was due to the plaintiff.

All these facts have not been noticed by both the Courts below and thus erroneously decreed the suit, therefore, there is illegality and perversity, thus, question of law as aforementioned are required to be dealt with.

I have heard learned counsel for the appellant and appraised the paper book.

Para No.1 of the written statement, reads thus:-

*“That para No.1 of the plaint is correct to the extent that the defendant i.e. answering defendant agreed to sell his 14-15 at the rate of Rs.390000/- (Lacs) per acre 4849 sq. yards on 27-10-2005 received Rs.11,25,000/- only. Rest of the contents of this para are wrong and hence denied.”*

Provision of Order 12 Rule 6 CPC are not required to be interpreted again and again. Once the execution of the receipt of the earnest money had been admitted, onus of proving the document of the plaintiff stood discharged. The alleged cancellation is amongst the vendor as the property in dispute was owned by various persons. Since, the appellant-defendant No.1 had 1/4<sup>th</sup> share in the property, sale deed qua his share as per the endorsement of the sale deed has not been reflected and rightly so, the Courts below ordered for recovery of the amount as noticed above.

Admission is the best piece of evidence which can be read against the person.

It would not be fatal to the case if the plaintiff has not appeared in the witness-box, because of the admission in the written statement. Judgment of Hon'ble Supreme Court rendered in *Vidhyadhar Vs. Mankikrao and another, 1999 AIR (SC) 1441*, would not be also applicable as in view of the admission in the written statement.

I am of the view that findings rendered by the both the Courts below do not call for interference, much less, no substantial questions of law arises for determination.

Dismissed.

**25.07.2016**

*pawan*

**(AMIT RAWAL)  
JUDGE**

**Whether speaking/reasoned:- Yes**

**Whether reportable:- Yes/No.**