

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

RSA-3565 of 2014 (O&M)

Date of decision: 06.05.2016

Subhash Chander and others

...Appellants

Versus

Pawanjit Kaur and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. A.K. Khunger, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

The appellant/plaintiffs filed a suit for specific performance of agreement to sell dated 14.09.2007. The trial Court vide judgment and decree dated 11.02.2012, partly decreed the suit in the alternative for the recovery of Rs.50,000/-.

2. Aggrieved against the findings of trial Court, the appellants filed an appeal which was dismissed by the learned Appellate Court, vide judgment and decree dated 08.01.2014.

3. The Appellate Court affirmed all the findings

recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal at the behest of the appellants.

4. It is contended that the appeal has been solely dismissed on the ground that the appellants did not appear before the Sub Registrar on the targeted dated i.e. 31.12.2007. He states that subsequently the respondents have executed a sale deed in favour of the appellants of another parcel of land which indicates that the parties have reached to an understanding to transfer the entire land and the targeted date had lost its significance.

5. Heard, the learned counsel for the appellant.

6. On perusal and appreciation of the material on record, it is established that the agreement was reached on 14.09.2007 qua the suit land measuring 41 kanals 01 marla @ Rs.1,25,000/- per acre, which was not denied by the respondents. The agreed date to execute the sale deed was 31.12.2007. The appellants had raised a plea that on the agreed date they appeared before the Sub Registrar to perform their part of contract but respondents have failed to do so but no document has been produced by the appellants in support of their assertion. Had there been any malafide on the part of respondents, they had not admit the

execution of agreement to sell or the factum of receiving Rs.50,000/- as earnest money. No doubt, the respondents had also not proved that they were present in the office of Sub Registrar but the initial onus was on the appellants to prove their readiness and willingness which they failed to discharge. There is nothing on record to suggest that the plaintiff/appellants made any effort to get the sale deed executed on the stipulated date. The readiness and willingness of the plaintiffs have also not been corroborated by way of some document or evidence. Thus, this Court concurs with the observations of both the Courts below that the plaintiffs have failed to prove on record to show their readiness and willingness to perform their part of agreement. The trial Court has rightly granted alternative relief of refunding the money after partly decreeing the suit. There is no illegality or perversity in the judgments and decrees passed by both the Courts below. No substantial question of law arises for consideration. Hence, no interference is called for.

Dismissed.

06.05.2016

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(JITENDRA CHAUHAN)
JUDGE