

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

**Regular Second Appeal No.6281 of 2015 (O&M)
Date of Decision: August 23, 2016.**

Rajinder Singh

.....APPELLANT(s).

VERSUS

Des Ram

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.K. Bishnoi, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This is appeal by defendant Rajinder Singh against the concurrent judgments of the Courts below decreeing the suit filed by respondent-plaintiff Des Ram for possession of the suit land measuring 9 kanals 18 marlas situated in village Dhana, Tehsil Hansi, District Hisar by way of specific performance of the agreement to sell dated 17.09.2008 on deposit of balance sale consideration by the plaintiff within a period of one month from the date of judgment and decree passed by Additional Civil Judge (Senior Division), Hansi.

2. The case of the plaintiff, in brief, is that he agreed to purchase the suit land for a total sale consideration of ₹9,90,000/- and paid ₹4 lac as earnest money. The date for execution and registration of the sale deed was fixed as 16.03.2009 on which date, he was present in the office of Sub Registrar with balance sale consideration and other expenses but the

defendant did not turn up. Hence, this suit, which was filed on 26.03.2009.

3. The defendant, in his written statement, denied the execution of the agreement and receipt of earnest money. He took an alternate plea that plaintiff had obtained his signatures on blank stamp papers and other papers which were converted into agreement and receipt.

4. Both the Courts on appraisal of evidence held that the plaintiff has been able to prove the due execution of the agreement to sell and receipt of earnest money by the defendant. It was also held as proved that plaintiff has always been ready and willing to perform his part of the agreement.

5. Learned counsel for the appellant-defendant has argued that respondent-plaintiff in order to prove agreement has examined deed writer PW5 Ghanshyam Dass; PW4 Hand-writing and Finger Prints Expert Shamsher Singh; PW2 Duli Chand and PW3 Prithi Singh. All these witnesses have supported the case of the respondent-plaintiff. A case has been set up that appellant was not known to the plaintiff but this fact has been shattered by PW3 Prithi Singh, who has stated that his daughter is married was discussed with plaintiff, whom he wanted to settle at Hansi. When the matter with the plaintiff, he disclosed that the appellant-defendant wanted to sell some agricultural land. Thereupon Des Ram plaintiff visited the land and had talk with the defendant. The testimony of this witness show that the defendant was knowing the plaintiff. Secondly, no evidence has been produced on file to prove source of ₹4 lacs paid as earnest money by plaintiff and his financial capacity to pay the balance sale consideration.

6. The execution of the agreement dated 17.09.2008 has been held as proved by the testimony of the scribe, marginal witnesses and Hand-

writing and Finger Prints Expert. Plaintiff had also proved that he was present in the office of Sub Registrar on the date fixed for execution of the sale deed and got his affidavit attested. His statement is unrebutted to the effect that he was having balance sale consideration with him on the day he appeared before the Sub Registrar. Nothing was suggested to doubt the financial capacity of the respondent-plaintiff to pay the balance sale consideration. Even otherwise, it is nowhere case of the appellant that the plaintiff was not capable of paying earnest money and balance sale consideration. The mere fact that the plaintiff was aware about the intention of the appellant-defendant to sell his land was no reason for the Courts below to draw adverse inference about the execution of the agreement to sell by the appellant. In these facts and circumstances, submissions of learned counsel for appellant have no merits and are discarded.

7. Learned counsel for the appellant could not point out that any finding of the Courts below is result of wrong appreciation of evidence or any vital evidence has been ignored or misread by the Courts below, calling for any interference.

8. No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

August 23, 2016
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***