IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 634 of 2015 (O&M)
Date of Decision: March 11, 2016

Harjinder Singh

...Appellant

Versus

Bhupinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Naresh Kaushal, Advocate
for the appellant.

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AUGUSTINE GEORGE MASIH, J. (Oral):

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Rajpura, dated 21.05.2013, whereby, the suit for possession by way of specific performance of agreement to sell dated 08.03.2004, which was extended on 08.09.2004 and 07.03.2005 in respect of land measuring 7 bighas and 6 biswas being one sixth share of total land measuring 45 bighas and 12 biswas comprised in Khewat/Khata No.15/60, Khasra Nos.1271 (4-0), 1272 (4-0), 1273 (4-0), 1274 (7-7), 1275 (4-8), 1277 (4-0), 1278 (4-0), 1279 (4-0), 1280 (5-17) and 1282 (4-0), situated in village Uksi, Tehsil Rajpura, District Patiala, for the sale consideration of ₹3,00,000/-, out of which ₹1,24,000/- was paid as earnest money and ₹1,76,000/- was the balance sale consideration and for permanent injunction restraining the appellant-

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defendant from selling, transferring, mortgaging or alienating the same in any manner to any other person except the respondent-plaintiff, stands decreed, appeal against which preferred by the appellant-defendant has been dismissed by the Additional District Judge, Patiala, on 19.08.2014.

2. It is the contention of the learned counsel for the appellant that the appellant had taken a loan of ₹50,000/- on interest at the rate of 4% per month. He contends that as a surety, some blank papers were got signed by the respondent-plaintiff whereon the agreement to sell dated 08.03.2004 has been got typed in connivance with the attesting witnesses qua the land in question. He contends that except for the loan of ₹50,000/-, no other amount has been received by the appellant-defendant and on the basis of the fraudulent agreement to sell, the suit for specific performance has been filed, which cannot sustain. In support of this contention, he contends that even the typist Som Nath (DW-2), who is alleged to have typed the agreement to sell, has, when he appeared before the court, denied to have typed the agreement to sell (Ex.P-1). He, therefore, contends that the said agreement to sell could not have been relied upon by the Courts below for decreeing the suit of the respondent-plaintiff.

3. I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the impugned judgments but do not find any illegality in the said

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judgments.

4. The due execution of the agreement to sell has been proved as is apparent from the discussion of the evidence which has been brought on record. Nothing has come on record on the part of the appellant-defendant to prove that he had taken a loan of ₹50,000/- from the respondent-plaintiff. Except for the bald statement, there is no evidence on record which would indicate that indeed loan amount was borrowed by the appellant-defendant. The signatures on the agreement to sell are not denied by the appellant-defendant and further, the extensions which have been given for execution of the agreement to sell and the receipt of ₹1,24,000/- on 07.03.2005, has also not been denied. Since two extensions were granted for executing the sale deed i.e. 08.09.2004 and 08.03.2005, it cannot be accepted that the appellant-defendant was not knowing that the document was an agreement to sell and the time was being sought to be extended for execution of the sale deed. Thus, the assertion of the counsel for the appellant that the said agreement to sell has not been executed by the appellant-defendant, cannot be accepted.

5. No other point has been urged or argued by the learned counsel for the appellant.

6. A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below are based on proper appreciation of the pleadings and the evidence brought on

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record which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

7. No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the appeal, the same stands dismissed.

CM No.1869-C of 2015

In view of the order passed in the main appeal, no order is required to be passed in the present application as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

March 11, 2016
Harish

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