

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 67 of 2015(O&M)
Date of decision : February 29, 2016

Darshan Singh

..... Appellant

Versus

Varinder Manku

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajbir Singh, Advocate
for the appellant.

Mr. Ashok Bhardwaj, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The appellant-defendant is aggrieved of the concurrent finding of fact whereby the suit for specific performance of the agreement to sell dated 17.11.2008 has been decreed by directing the defendant to execute and get the sale deed registered in favour of the plaintiff by receiving the balance sale consideration and delivering the possession of the land to the extent of 4 ½ biswas bearing Khewat Nos. and Khatoni Nos. as mentioned in the suit.

Learned counsel appearing on behalf of the appellant submits that the agreement to sell aforementioned was entered into for a total sale consideration of ₹1,34,000/- per biswa and a sum of ₹50,000/- allegedly was received but the respondent-

plaintiff was not ready and willing to perform his part of the agreement on the date of execution and registration of the sale deed dated 11.2.2009, who, to a specific question in cross examination as extracted in grounds of appeal, admitted that he did not appear before the sub Registrar to get the sale deed executed in his favour from the respondent. Both the courts below failed to appreciate the aforementioned fact that readiness and willingness was conspicuously absent.

Learned counsel appearing on behalf of the respondent submits that readiness and willingness has been proved inasmuch as, prior to filing of the suit the defendant had been putting up the matter on one pretext or the other and had been delaying the matter. Plaintiff got marked his presence before the Sub Registrar, the suit had been filed with promptitude in the month of March, 2009 and courts below decreed the suit.

I have heard learned counsel for the parties and appraised the paper book and of the view that the suit had been filed immediately thereafter i.e. within one month of the stipulated date i.e. 19.3.2009. Concededly, the agreement to sell had been admitted, therefore there was no need of proving the same. Had it been a case where after expiry of the stipulated period the respondent-plaintiff had remained silent and idle for a number of years and then woke up to seek vindication of his grievance almost at the fag end of expiry of the period of limitation, it can be said that there was no readiness and willingness but the fact remains that after expiry of date of stipulated period i.e. 11.2.2009 the suit was filed on 19.3.2009. Even

the appellant has admitted that on 11.2.2009 he was working as gunman with Deputy Commissioner and he was on escort duty and how could he be present in the office of sub Registrar. Rather, the document of presence has been procured in order to wriggle out of the liability.

Keeping in view the aforementioned facts, I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

February 29 , 2016
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