

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5502 of 2014(O&M)
Date of decision : February 2, 2016

Gurdev Singh

..... Appellant

Versus

Kuldip Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. K. S. Hissowal, Advocate
for the appellant.

Mr. Puneet K. Bansal, Advocate
for the caveator-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 judgment and decree of the lower appellate court whereby the suit for specific performance of agreement to sell dated 8.8.2002, at the instance of the plaintiff has been decreed in toto and he has been called upon for execution and registration of the sale deed on receipt of balance sale consideration.

Learned counsel appearing on behalf of the appellant submits that the trial court partly decreed the suit. In essence, did not grant discretionary relief under Section 20 of the Specific Relief Act, 1963 and ordered for refund of earnest money along with interest @ of 9% per annum. However, the lower appellate court has decreed the suit in toto. The agreement has not

been proved through the testimony of the attesting witness, much less scribe, as in the cross examination he submitted that he was not maintaining the register serial wise. This is sufficient to prove that the agreement to sell was forged and fabricated document. The hand writing expert examined on behalf of the appellant-defendant also stated that the signatures are not of Gurdev Singh-vendor. The value of the land in the year 2002 was higher than what was agreed to be sold, thus, it is a clear case of fraud and mis-representation.

He further submits that the possession is still with the appellant-defendant whereas, as per the plaint the possession was alleged to be handed over to the plaintiff, thus, the aforementioned facts have not been noticed by the court below and prays that substantial question of law arise for determination by this Court.

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

I am of the view that the agreement to sell dated 8.8.2002 has been proved through the testimony of attesting witness namely PW-2-Resham Singh son of Rajinder Singh @ Harjinder Singh and the agreement to sell was in respect of land measuring 15 Kanals 17 Marlas for a total sale consideration of ₹2,77,300/- against which a sum of ₹1,30,000/- as earnest money was paid. The target date for execution and registration of the sale deed was 7.8.2003. The appellant did not appear before the sub Registrar for registration of the sale deed. Accordingly, the suit was filed on 22.9.2003. The trial court despite having been found that the agreement to sell has

been proved did not grant discretionary relief. However, the lower appellate court on appreciation of the aforementioned evidence, both oral and documentary found that the hand writing expert of the defendant in cross examination stated that the signatures marked as S-7 to S-9 were photographed but due to some technical error, these photographs were not fit for comparison. She has further admitted that letter-DE and V are written in connected manner in the disputed as well as in the standard signatures. She has further admitted that there is present extra stroke on the right apex of letter-V. The aforementioned documents have been proved, in essence, signatures are of no body else but of the appellant-defendant.

Keeping in view the aforementioned facts, I do not intend to differ with the finding rendered by the lower appellate court which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

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 2, 2016
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