

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

**Regular Second Appeal No.5786 of 2014
Date of decision: 30.8.2016**

Sukhpal Singh

... Appellant

Versus

Iqbal Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Rajesh Narang, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

The appellant plaintiff is aggrieved of the alternative relief granted by both the courts below in a suit for specific performance of agreement to sell in respect of the suit land that both the courts below have non-suited him by taking benefit of the Specific Relief Act. He submits that the property was mortgaged. The court could have put a condition to the appellant by making payment or balance sale consideration but not in the manner and mode as indicated above.

Once the plaintiff appellant has been able to prove the execution of the agreement to sell much less payment of earnest money and was willing to deposit, discretion under Section 20 of the Specific Relief Act ought to be exercised.

He submits that the total land in question is 16K but the vendor had got only 4K. Accordingly, he is not willing to ward of the loan liability qua 4K of share aforementioned. Notice of this appeal was served and as per office report, service is complete. I have heard the learned counsel for the appellant and perused the judgment and decree of the courts below and of the view that discretion under Section 20 is to be exercised and suit is ordered to be decreed. The plaintiff shall clear the liability of the financial institution/cooperative bank with whom the property was mortgaged. Resultantly, the appeal stands allowed.

(AMIT RAWAL)
JUDGE

August 30, 2016

Paritosh Kumar

Whether speaking/reasoned : Yes

Whether reportable : No