

RA-RS-85-C-2016
CM No.9224-C-2016 in
Regular Second Appeal No.4435 of 2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RA-RS-85-C-2016
CM No.9224-C-2016 in
Regular Second Appeal No.4435 of 2013
Date of decision: 04.11.2016

Mohinder Singh

.....Applicant

versus

Malvinder Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ashish Aggarwal, Senior Advocate with
Ms.Neeti Gupta, for the applicant

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

CM No.9224-C-2016

For the reasons mentioned in the application, it is allowed and
15 days delay in re-filing the review application stands condoned.

RA-RS-85-C-2016

This application has been filed by one Mohinder Singh for review of the judgment dated 25.4.2016, passed by this Court in Regular Second Appeal No.4435 of 2013. The grounds taken for review are that before the lower appellate Court an application under Order 41 Rule 27 CPC for additional evidence was filed, which was not decided and that the same has not been considered by this Court. It is stated that the said additional

evidence was very material and goes to the root of the matter. It is further stated that DDR in this regard was lodged regarding loss of the documents. Agreement to sell Ex.P1 stands admitted by Jagdish Kaur and further that one Sham Lal attesting witness of agreement to sell was examined. The other grounds have also been taken to press the first ground of not deciding the application for additional evidence and also on merits.

I have heard learned counsel for the applicant and have also carefully gone through the file.

So far as merits of the case are concerned, these were considered and decided and cannot be gone into by this Court, in this application. There is no error apparent on the record.

So far as application for additional evidence filed before the lower appellate Court is concerned, the learned counsel has referred to the grounds of appeal to state that the application was filed before the learned Additional District Judge on 12.3.2013 to produce the ejectment petition, statement of tendering rent and the order passed by the Court but the said application was not decided.

After going through the judgment of this Court, I am of the view that it was a case of specific performance and this Court was required to decide whether the agreement to sell has been proved or not. There was no issue regarding the lease deed in favour of the present applicant nor any relief in this regard was claimed.

Learned counsel has referred to the findings of this Court vide which the said documents have been held to be of dubious nature. I am of the view that this was one of the grounds. There were other grounds also

vide which it was held that the agreement to sell was of dubious nature. The relinquishment deed produced before the Court was also found to be of dubious nature and consequently, it was held that the agreement to sell is not proved. It being so, the application for the said additional evidence was not required for the just decision of the case and stands declined. There is no other error apparent on the record and there is no other just ground to review the judgment and re-open the case. It also comes out that earlier two other applications for review of the judgment in the three connected suits were filed, which have already been dismissed by this Court.

In view of above, the present application for review of the judgment dated 25.4.2016 passed by this Court in Regular Second Appeal No.4435 of 2013 stands dismissed.

04.11.2016

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No