

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Regular Second Appeal No.5928 of 2014 (O&M)
Date of Decision: May 05, 2016.**

Jangir Singh and another

.....APPELLANT(s).

VERSUS

Amrik Singh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. A.S. Khinda, Advocate for
Mr. Munish Gulati, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

2. This is appeal against the concurrent judgments of the Courts below whereby in the suit for specific performance of the agreement filed by respondent-plaintiff Amrik Singh, alternative relief for recovery of ₹4 lac paid as earnest money along with interest @ 9% per annum from the date of execution of the agreement dated 06.05.2002 till the date of filing of the suit and pendente lite and future interest @ 6% per annum, was allowed.

3. The judgment and decree passed by Additional Civil Judge (Senior Division), Ferozepur was affirmed in appeal by the first Appellate Court of Additional District Judge, Ferozepur.

4. The case of the plaintiff, in brief is that on 06.05.2002, the defendants agreed to sell their 23 kanals 4 marlas of land @ ₹1.5 lac per acre

and received ₹4 lac as earnest money. The date for execution and registration of the sale deed was fixed as 17.11.2005, on which date, the defendants did not turn up to execute the sale deed and get it registered. The plaintiff has always been ready and willing to perform his part of contract and was also present before the Registering Authority on 17.11.2005. The plaintiff also averred that in the event of defendants are proved to be owners of less land, then the plaintiff is entitled to get specific performance with regard to the land owned by them.

5. The defendants contested the claim of plaintiff with the plea that they were selling their agricultural produce at the commission agency of M/s New Punjab Commission Agents, Mamdot. A sum of ₹20,000/- was outstanding against them for which Pritam Singh and Jagdish Lal, partner of above firm obtained their thumb impressions on blank papers. The amount of ₹20,000/- was repaid but the blank papers having the thumb impressions of defendants were not returned.

6. Both the Courts below on appraisal of evidence, recorded the concurrent finding that the execution of agreement to sell is duly proved, however, the relief of specific performance of agreement to sell was declined keeping in view the monetary transactions between the parties even earlier to this agreement and execution of various earlier agreements.

7. Learned counsel for the appellant has argued that there were financial dealings between the appellants and M/s New Punjab Commission Agents and it is proved on record that they have been getting various writings/agreements executed from time to time. This proves the plea raised by the appellant that their signatures were taken on blank papers. The falsity

of the claim of plaintiff is further proved from the fact that appellants were having 14 kanals 8 marlas of land while the agreement was of 23 kanals 4 marlas.

8. In order to prove execution of the agreement, plaintiff besides examining the marginal witness, also examined the most relevant witness i.e. Radhey Shyam, stamp vendor PW5, who has stated that on 06.05.2002, defendant Jagir Singh purchased the stamp paper and thumb marked the relevant entry in the register. The agreement was scribed on this stamp paper and this belies the contention of appellants that they had thumb marked blank papers which were used on 06.05.2002 to create the agreement. So far as the title of the appellants over the land measuring 14 kanals 8 marlas is concerned, both the Courts have taken this fact into consideration while declining the relief of specific performance of agreement dated 06.05.2002.

9. On perusal of the record and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

10. No substantial question of law requiring determination arises in this appeal, which has no merits.

11. Dismissed.

May 05, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE