

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

**RSA No.4984 of 2016 (O&M)  
Date of Decision: August 17, 2017**

Yash Pal and others

... Appellants

Versus

Gurdev Singh and others.

... Respondents

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. Bhag Singh, Advocate,  
for the Appellants.

**ANIL KSHETARPAL, J.**

**CM No.12973-C of 2016.**

For the reasons stated in the application, delay of 24 days in  
refiling the appeal is condoned.

**CM No.12974-C of 2016**

Application is allowed. Deficiency in payment of Court fee has  
been made good. Delay, if any, is condoned.

**RSA No.4984 of 2016.**

Plaintiffs are in Regular Second Appeal against the concurrent  
finding of fact arrived at by the Courts.

Plaintiffs had filed a suit for possession by way of specific  
performance of agreement to sell dated 03.02.2006 and 12.04.2006.  
Defendants appeared and contested the suit. It was pleaded that the  
plaintiffs are the property dealers and are dealing with sale and purchase of  
land. It was further pleaded that the plaintiffs had contacted defendants and

on the allurements of the plaintiffs, defendants agreed to sell the land through the plaintiffs. Firstly, an agreement to sell dated 03.02.2006 was prepared and earnest money to the tune of Rs.20 lakhs was paid. Thereafter, the plaintiffs did not get the sale deed registered and rather got another agreement to sell prepared dated 01.03.2006 with respect to land measuring 78 kanal 18 marlas. Defendants were again paid a sum of Rs.14 lakhs as earnest money and the last date for execution of the sale deed was fixed as 30.09.2006. The plaintiffs did not come present in the office of the Sub Registrar for execution and registration of the sale deed on the date agreed upon. Defendants further pleaded that they issued notice to the plaintiffs to come and execute the sale deed. However, the plaintiffs remained silent up to the year 2009 and the present suit was instituted on 17.09.2009 i.e. the last date of limitation.

The learned trial Court after appreciating the evidence available on the file held that the plaintiff did not come forward to get the sale deed executed on the day fixed for execution and registration as per agreement to sell. The learned trial Court further found that the plaintiffs were not ready and willing to perform their part of the contract. It was further held that the plaintiffs failed to prove their financial capacity to show their readiness and willingness.

Plaintiffs filed the first appeal. It was also dismissed by the Court after reappreciating the evidence. The learned first Appellate Court further noticed that vide notice dated 26.09.2006, the defendants had cancelled the agreement to sell and forfeited the money. The plaintiffs have

not challenged the aforesaid cancellation of agreement to sell.

Learned counsel for the appellants has submitted that the finding of the learned Courts below are the result of misreading of evidence. Learned counsel for the appellants further submitted that even earnest money has not been ordered to be refunded.

I have considered the submissions of the learned counsel for the appellants and with his able assistance gone through the judgements passed by the Courts below.

Learned counsel for the appellants has not been able to point out any material misreading of evidence which would change the judgements of the Courts. It is not in dispute that the plaintiffs did not come forward to execute and register the sale deed on the day fixed in the agreement to sell. As per the terms of agreement, the earnest money stood forfeited. Further, there is complete silence for a period of almost 3 years on the part of the plaintiffs. Plaintiffs have also failed to prove their readiness and willingness.

In view of the above, I do not find any reason to interfere with the concurrent finding of fact arrived at by the Courts below.

The appeal is dismissed.

(ANIL KSHETARPAL)  
JUDGE

17.08.2017  
sk

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |