

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

**RSA No. 6416 of 2016 (O&M)
Decided on:28.07.2017**

Sita Ram Verma

.....Appellant

versus

Smt. Sudesh Gupta

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Anmol Verma, Advocate
for the appellant.

Rajbir Sehrawat, J.(Oral)

The present appeal has been filed by the defendant emerging from a suit for possession filed by the respondent-plaintiff herein. The suit filed by the plaintiff was decreed. The appeal filed by the present appellant was also dismissed. Therefore, the present appeal has been filed to challenge the concurrent findings recorded by both the Courts below.

The facts from the case are that there are some shops situated in village Bilaspur, District Yamuna Nagar which was, admittedly, mortgaged with the present appellant-defendant on 1992 by Kunti Devi. After her death the present respondent- Smt. Sudesh Gupta, the daughter of Kunti Devi filed a suit for possession by way of redemption. That suit has been decreed. The present appellant-defendant had taken plea that he had purchased this property by making payment of Rs.50,000/-. However, that plea has not found favour with the Courts below.

While arguing the case, learned counsel has submitted that it has been his submission before the Courts below that the plaint has not been signed by the plaintiff-sudesh Gupta. Therefore, there being no pleadings regarding the suit, the same is not maintainable and has to be dismissed. Second submission of the counsel for the appellant is that he purchased this property and paid Rs.50,000/- for the same. However, in good faith he did not obtain any receipt of the payment nor any agreement to sell was entered into between the parties.

However, the first plea raised by the counsel for the appellant is factually incorrect, as has been held by the Courts below. A perusal of the plaint shows that the plaintiff has in fact put her signatures on the plaint, although the same has been put up at a place where her counsel was supposed to sign. However, that does not invalidate the signatures of the plaintiff's on the plaint. As observed by the learned Lower Court it is clear from the perusal of the signatures while comparing the same with the signatures on power of attorney and the statement of deposition, that the signatures tally with each other. Therefore, this plea of the counsel for the appellant that plaint is not signed by the plaintiff is not sustainable.

The plea of the appellant that he had purchased the property and therefore cannot be dispossessed also does not merit acceptance for the simple reason that there is not even an agreed transaction of sale in this case. The appellant only raises a plea that he made the payment of Rs.50,000/-. Although there is no proof of making the payment of Rs.50,000/-, however, even if the same is assumed in favour of the appellant then also that payment itself does not convey any title to the appellant nor create a presumption for agreement to sell in his favour regarding immovable property. Therefore, irrespective of the fact that he alleges payment of

Rs.50,000/- as sale consideration, no title passes in favour of the appellant.

No other arguments were raised.

In view of the above the present appeal is dismissed.

28th July, 2017
Manju

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No