IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA NO.2805 of 2014 (O&M)
Date of Order: 29.08.2017

Hardev Singh and others

..Appellants

Versus

Kartar Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ranjit Saini, Advocate,
for the appellants.

Mr. Sahil Kaushal, Advocate,
for the respondent.

ANIL KSHETARPAL, J (Oral)

Plaintiffs are in regular second appeal against concurrent findings of fact arrived at by the Courts below.

Plaintiffs filed a suit for specific performance of an agreement to sell dated 17.08.1999.

Defendant appeared and stated that the aforesaid documents were executed as a security because defendant used to borrow money from plaintiffs. It was further stated that one of the plaintiffs, namely, Karam Chand, was working as a Munim/Clerk with the commission agent firm, namely M/s Hardial Singh Gurdial Singh, Grain Market, Doraha.

After appreciating the evidence available on the file, the learned trial Court held that the agreement to sell was executed only for the purpose of security. Learned trial Court further found that similar agreements were also executed earlier by the defendant in favour of plaintiffs or their relatives, which are Ex.D1, Ex.D3, Ex.D5 and Ex.D8, respectively. Learned trial Court further noticed that although out of the total sale consideration of Rs.4,80,000/-, Rs.4,15,000/- was said to have been paid as earnest money. However, the date for execution and registration of the sale deed was kept as 30.06.2000. Even this date was extended to 30.06.2001. The suit was filed on 09.04.2004.

With these findings, learned trial Court granted alternative relief to the plaintiffs and ordered refund of the earnest money along with interest @ 9% per annum pendente lite and future interest @ 6% per annum from the date of filing of the suit till its realization.

Two appeals were filed, one by the plaintiffs and other by the defendant.

Learned first appellate Court after re-appreciating the evidence available on the file, upheld the judgment passed by the trial Court and dismissed both the appeals.

I have heard counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

From the findings of fact arrived at by the Courts below, it is established that the defendant used to borrow money from the plaintiffs which is further proved from agreements, Ex.D1, Ex.D3, Ex.D5 and Ex.D8, respectively. It is further proved that Karam Chand, one of the appellant, was present at the time of execution of all these agreements.

Still further the agreement to sell is dated 17.08.1999. 90% of the amount was paid as earnest money. Still the sale deed was not got executed. The date for execution and registration of the sale deed was fixed after a period of 10 months i.e. on 30.06.2000. Thereafter once again the date was extended by another year i.e. 30.06.2001. The plaintiffs filed the present suit on 09.04.2004 i.e. again with a gap of 34 months.

In these circumstances, I do no find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below. The regular second appeal is ordered to be dismissed.

August 29, 2017 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No