

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

**RSA No.84 of 2015 (O&M)
Date of Decision: 10.08.2017**

Menuddin

... Appellant

Versus

Alam and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Virendra Rana, Advocate,
for the appellant.

ANIL KSHETARPAL, J.

Plaintiff is in Regular Second Appeal against the judgement passed by the District Judge, Mewat.

Plaintiff had filed a suit for specific performance of agreement to sell dated 30.04.2010 with respect to agricultural land mentioned in the plaint, which comes to 4 kanals.

Learned District Judge noticed that the defendants had transferred half share of the land bearing Rectangle No.18 Kila No.2 (8-0) which comes to 4 kanals in favour of respondent No.3 Sapina - wife of plaintiff vide sale deeds dated 28.01.2011 and 7.02.2011. Sale deeds Ex. D6 and D7 have been placed on the file, which proves that respondent No.3- wife of the plaintiff has already transferred the land. The learned Court noticed that the plaintiff by concealing all these facts had filed the suit. In the result, the appeal filed by the defendants was accepted.

Learned counsel for the appellant has submitted that the sale deeds in favour of the wife of the appellant were independent transactions and were not related to the agreement to sell. He has further submitted that

the judgement of the Courts below are result of misreading of the evidence.

I have considered the submission of the learned counsel for the appellant.

Plaintiff filed the suit on 01.02.2011. The sale deeds executed in favour of the wife of the plaintiff are dated 28.01.2011 and 07.02. 2011. Plaintiff has not pleaded these facts in the plaint. Defendants brought to the notice of the Court that the land measuring 4 kanals has already been transferred in favour of the wife of the plaintiff. Out of two sale deeds executed in favour of the wife of the plaintiff, one sale deed is after the institution of the suit. Therefore, learned first Appellate Court has rightly concluded that the transfer of the land by way of two sale deeds was only with a view to satisfy the claim of the plaintiff.

Learned counsel for the appellant has raised an argument that the judgement and decree passed by the first Appellate Court is the result of misreading of the evidence. However, on a pointed question, learned counsel for the appellant was not able to point out any misreading of the evidence by the learned District Judge. The learned District Judge after appreciating the evidence available on the file has recorded a finding of fact, which is not shown to be perverse.

Finding no reason to interfere with the judgement passed by the learned District Judge, the appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

10.08.2017
sk

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No