

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

RSA No.2564 of 2017 (O&M)
Date of Decision : 28.08.2017

Idrish (deceased) through LRs and others

..... Appellants

Versus

Akhtar Hussain and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ajay Ghangas, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit of the appellants for specific performance of an agreement to sell of the year 1995. By that agreement the respondents agreed to sell 24 kanals of land after the ownership of the same was decreed in their favour. By Ex.P-2 the appellants were shown to have paid the entire consideration of Rs.2,40,000/- to the respondents towards that agreement to sell. 15 years thereafter i.e. on 13.05.2010 and 14.05.2010 the respondents executed two sale deeds of 2 kanals and 8 kanals of land in favour of the appellants. In those sale deeds it was mentioned that the appellants had paid a sum of Rs.2 lakhs and Rs.10 lakhs

respectively but there was no mention of the original agreement to sell.

The Courts below held that the appellants had proved the original agreement to sell but further held in the wake of the two sale deeds of 13.05.2010 and 14.05.2010 and the attendant circumstances it would have to be held that the appellants had abandoned the agreement to sell of the year 1995. The Courts below came to this conclusion on the basis of the fact that in the two sale deeds, as noticed above, there was not even a mention of any earlier agreement to sell. The Courts below further held that if those sales had taken place pursuant to the agreement to sell of 1995 then there was no occasion for the appellants to have paid more money since vide Ex.P-2 they had already paid the entire consideration.

Counsel for the appellants has not been able to show how these findings are flawed.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

August 28, 2017
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No