

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

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RSA No.2706 of 2017 (O & M)
Date of Decision:10.11.2017

Phoola Rani

...Appellant

Versus

Ranjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Padamkant Dwivedi, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

Defendant-appellant is in appeal against judgment passed by the learned District Judge, Ferozepur. Plaintiffs had filed a suit for possession by way of specific performance of agreement to sell dated 13.06.2009 for a total sale consideration of Rs.3,50,000/-, out of which Rs.1,00,000/- was paid as earnest money. As per agreement to sell, the sale deed was to be executed and registered on 20.01.2010. Defendant since did not honour the agreement to sell, therefore, the plaintiffs filed a suit for specific performance of agreement to sell.

Defendant in the written statement admitted the execution of the agreement to sell and receipt of earnest money, however, it was pleaded that the plaintiffs were not ready and willing to perform their part of contract and plaintiffs have purchased some other property.

Learned First Appellate Court after appreciating the evidence available on the file, reversed the judgment of the learned trial Court and decreed the suit for specific performance of the agreement to sell.

I have heard learned counsel for the appellant at length and

with his able assistance gone through the photocopies of the records produced by him. It is not in dispute that 20.01.2010 i.e. the target date for execution and registration of sale deed was a holiday. Next day i.e. 21.01.2010 was not a date assigned for registration of the sale deed. On 22.01.2010, the plaintiffs marked their presence in the Office of the Sub Registrar, where sale deed is to be executed at 3.30 PM. It is the case of the defendant that she also visited the Office of the Sub Registrar and got her presence marked at 2.55 PM.

The suit for specific performance of the agreement was instituted on 04.03.2010 i.e. after a period of 44 days from the date fixed by the agreement for registration and execution of the sale deed.

Plaintiffs have asserted that they were ready and willing to purchase the property and they had come present in the Office of the Sub Registrar along with the balance sale consideration.

Plaintiffs have further asserted that they had even purchased stamp papers for execution and registration of the sale deed. Plaintiffs appeared in the witness-box and stated that they had purchased stamp papers for execution and registration of the sale deed. Defendant failed to cross-examine, therefore, the evidence on this aspect remains unchallenged.

Learned counsel for the appellant has vehemently argued that the aforesaid stamp papers have not been produced on the file. No doubt, the stamp papers have not been produced on the file but that would not improve the case of the defendant. Stamp papers must have been returned, since the defendant refused to execute the sale deed. Nobody would keep the stamp papers with him and lose money spent thereon.

substantive error in the judgment passed by the learned District Judge. The finding of the learned District Judge is on apprehension of evidence, which is not shown to be perverse.

For the reasons recorded above, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the learned District Judge.

Hence, this regular second appeal is dismissed.

10.11.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes
Whether Reportable : No