

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.2815 of 2017 (O&M)

Date of Decision : 24.08.2017

Balwant Singh (deceased) through LR Satinder Singh

..... Appellant

Versus

H.S. Monga

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Guninder Sidhu, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent decisions of the Courts below partly decreeing the suit of the respondent and allowing refund of money.

The admitted facts are that an agreement to sell was executed between the parties as per which the target date for executing the sale deed was 31.10.2008. It is also admitted that due to some reason that date had to be extended (the issue of date is the point in controversy). In the document the extended date was mentioned as 30.10.2008. Obviously this was an impossibility because the matter could not be extended to a previous date. Thereafter the claim of the respondent was that actually the intention of the parties was to extend the date upto 30.10.2009 and the year had been wrongly mentioned while the case of the appellant was that the intention

was to extend the date upto 30.11.2008 and the month had been wrongly mentioned. Both the parties led oral evidence in support of their claim. It was in these circumstances that both the Courts below came to the conclusion that none of the parties could prove what was the actual date for extension and, in view of the fact that the date mentioned in the document was an impossibility, ordered the refund of the earnest money.

Learned counsel has tried to again canvass that the intended extension was only for one month. However, after having gone through the evidence on record it is not possible for the Court to give a finding that the contention of the appellant is correct and that of the respondent is wrong. Once that is so, no fault can be found with the judgments of the Courts below.

Appeal is dismissed. No costs.

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

(**AJAY TEWARI**)
JUDGE

August 24, 2017
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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No