

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

**RSA No.3024 of 2017 (O&M)
Date of Decision: 06.09.2017**

Ram Parkash Singh

... Appellant

Versus

Gurmit Singh

... Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Pankaj Mahavir Chauhan, Advocate,
for the appellant.

ANIL KSHETARPAL, J. (ORAL).

The defendant is in Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

The plaintiff had filed a suit for possession by way of specific performance of agreement to sell dated 17.04.2009. The plaintiff had pleaded that earlier the parties had entered into an agreement to sell on 24.08.2007 with respect to the suit property. The defendant had received Rs.1,25,000/- as earnest money. Thereafter, the defendant had received another sum of Rs.75,000/- on 11.09.2007. The defendant had further received Rs.15,000/- and Rs.25,000/- against receipts. It is further the case of the plaintiff that he remained present on the target date i.e. 30.07.2008, however, the defendants did not come present and, therefore, on the request of the defendant, a further sum of Rs.1,00,000/- was paid and a fresh agreement to sell was executed on 17.04.2009.

The defendant appeared and submitted that the agreement to

sell dated 24.08.2007 was executed and receipt of earnest money of Rs.1,25,000/- was admitted. Further payment of Rs.75,000/- and Rs.15,000/- was also admitted. It was the case of the defendant that on the date of execution of the sale deed, the plaintiff did not come present. The defendant further asserted that the earlier agreement had come to an end and fresh agreement was executed. However, he has been paid a further sum of Rs.1,00,000/- and not Rs.3,25,000/-.

Both the Courts below have appreciated the evidence available on the file and have concurrently found that the plaintiff was ready and willing to perform his part of the contract. The Courts below have further found that after adjustment of Rs.2,25,000/- under the previous agreement dated 24.08.2007, further payment of Rs.1,00,000/- has been paid which is an admitted fact. With these findings, the Courts below have decreed the suit filed by the plaintiff.

Learned counsel for the appellant has submitted that the plea of the defendant is that the earlier agreement had come to an end and under the subsequent agreement, only Rs.1,00,000/- has been paid and it is also proved on the file.

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

It is the case of the plaintiff that he had paid additional sum of Rs.1,00,000/- at the time of execution of the agreement to sell dated 17.04.2009. It is not even the case of the plaintiff that he had paid Rs.3,25,000/- on execution of fresh agreement to sell. The plaintiff has pleaded that Rs.2,25,000/- was paid pursuant to the earlier agreement. The

property in question is the same. In these circumstances, this Court does not find force in the argument of the learned counsel for the appellant.

In view of the above, I do not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

The appeal is dismissed.

06.09.2017
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(ANIL KSHETARPAL)
JUDGE

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