

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

**RSA No.3762 of 2017 (O&M)  
Date of Decision: 26.07.2017**

Karan Singh

... Appellant

Versus

Babu Lal

... Respondent

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. J.P. Sharma, Advocate,  
for the appellant.

**RAJIV NARAIN RAINA, J.(Oral)**

1. This is defendant's second appeal in a suit for possession by way of specific performance of an agreement to sell dated June 22, 2010 of suit land measuring one agricultural kanal i.e. 605 sq. yards for a sale consideration of ₹7.5 lakh of which ₹5 lakh was paid as earnest money and the target date for the balance was fixed at the end of the two years.

2. Both the Courts are in concurrence that the ingredients to establish a claim for specific performance of a contract are present in this case upon the evidence adduced on record by the parties including payment of earnest money and on readiness and willingness of vendee to pay the balance amount of sale consideration to the defendant who is in appeal against the judgment and decree of the first appellate court. Defendant had backed out of the contract to enforce which the suit was instituted for relief of specific performance.

3. One of the attesting witnesses to the sale agreement was

produced in evidence as a witness by the plaintiff and deposed in his favour and Mr. Sharma appearing for the vendor defendant-appellant contends that in absence of second attesting witness produced the validity of the agreement should be disbelieved. The other witness was won over by the defendant. One honest witness is good enough to believe if his testimony is credit worthy. The contention is rejected because the courts below has relied on the oral testimony of the PW.

4. Interestingly, the second attesting witness to the agreement ultimately appeared for the opposite party i.e. the defendant while leading his evidence but was not able to dislodge the veracity of the agreement in the witness box faced with cross-examination. He deposed that he reached the place where the agreement was being drawn but actually had not seen the document in the making. He also deposed that the document was not read over to him before he appended his signature/thumb impression. But this is hardly sufficient reason to disbelieve the plaintiff and his witness that the agreement to sell had not come into existence.

5. There is sufficient evidence on record of one of the attesting witness to disprove the defendants version and the trial Court has placed trust and faith in that testimony and so also the second court and I have no reason to disagree with the work of the Courts below in their reasoning recorded after appreciating the evidence pro and contra, one way or the other. It is not the business in second appeal to disturb findings of fact and even errors of fact are not to be corrected unless they lead to a substantial question of law.

6. I have no reason to disturb the firm findings of the fact recorded

by the Courts below on legal evidence and would decline entertaining this appeal. It is accordingly dismissed in limine.

(RAJIV NARAIN RAINA)  
JUDGE

26.07.2017  
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| <i>Whether speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>No</i>  |