

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

RSA No.4608 of 2017(O&M)

Date of Decision:-28.09.2017

Sanjeev Kumar.

.....Appellant.

Versus

Smt. Pirta Devi & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. G.C. Shahpuri, Advocate for the Appellant.

JASWANT SINGH, J.

Defendant No. 3-Sanjiv Kumar is in second appeal, aggrieved against the Judgment and Decree dated 15.02.2016 passed by Civil Judge (Jr division) Jagadhari and the findings thereof have been affirmed by Additional District Judge, Yamuna Nagar at Jagadhari vide judgment and decree dated 19.09.2017, whereby respondent No. 1-Pirta Devi's suit for possession by way of eviction of the defendants has been partly decreed and the defendants have consequently been ordered to hand over the vacant possession of the suit property.

Learned Counsel for the appellant-defendant No. 3 has vehemently argued that both the courts below have not appreciated the evidence led by the appellant in the right perspective and consequently, have wrongly ordered the ejectment of appellant from the suit property. It has been further argued that the courts below have wrongly interpreted the

provisions of Section 49 and 53 A of Transfer of Property Act to come to a conclusion that the agreement to sell executed in favour of the appellant or in favour of defendants No. 1 and 2-respondents No. 2 and 3 respectively, does not create any right title or interest in their favour.

I have heard Ld. counsel for the appellant-defendant No. 3 and have perused the paper book with is able assistance. However, I am of the opinion that the present appeal is devoid of any merit and deserves to be dismissed.

It is not in dispute that respondent No. 1-plaintiff is the owner of the property in question on the basis of sale deed dated 08/04/1992. It is further not in dispute that defendants No. 1 and 2 namely Jaswinder Singh and Manjit Kaur have propounded an agreement to sell dated 25/07/2003 (Ex.D1) executed in favour of Manjit Kaur, on the basis of which they claimed that respondent No. 1-plaintiff had received the entire sale consideration of rupees 2,25,000 and put them in possession of the property. It is also not in dispute that Appellant-defendant No. 3 claims himself to be in possession, on the basis of another agreement to sell executed by Manjit Kaur in his favour on 31/01/2007. Meaning thereby, till today it is plaintiff-Pirta Devi who is legally the owner of the property in question and no valid right, title, interest can be held to be in existence in favour of the appellant, merely on the basis of an agreement to sell. Both the courts below have rightly held that an unregistered agreement to sell would fall short of the requirement of Section 54 and 55 of Transfer of Property Act and consequently, will not confer any right title or interest in the immovable property (except in a case where a plea of Section 53A of the transfer of property act is taken). Admittedly, both the agreements to sell propounded

by the defendants are unregistered and defendants No. 1 and 2 have miserably failed to prove that entire sale consideration of rupees 2,25,000/- was paid to plaintiff-Pirta Devi.

In these circumstances, this court is of the opinion that the findings recorded by both the courts below do not suffer from any illegality or perversity especially when, it is borne out from the record that another suit for specific performance is pending amongst the parties qua the same property.

In view of the above, finding no question of law much less substantial question of law arising for determination in the present second appeal, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

September 28, 2017
Vinay

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