

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RSA No.4694 of 2017 (O&M)
Date of Decision: 10.10.2017**

Jagan Nath since deceased through his
legal heirs Rajinder Parshad and others

... Appellants

Versus

Moti Lal

... Respondent

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

Present: Mr. Dinesh Ghai, Advocate,
for the appellants.

RAJIV NARAIN RAINA, J.(Oral)

1. To start with the suit itself was a lame duck when instituted without impleading the owner of the suit-corpus as defendant being a necessary party and instead impleading only the power of attorney holder of the owner of suit property, namely, Paramjit Singh during his lifetime. The plaintiff, the prospective vendee, and the power of attorney holder of the owner in absentia, could not have ganged up in a civil conspiracy to harm the interest of the vendor and wrest his property by keeping him out of the loop.

2. In these circumstances, the fragile case built on the strength of an oral agreement of sale and a scribed but unregistered sale deed when suit property was not conveyed to the plaintiff, falls like a house of cards. Both the Courts have committed no legal or factual error in dismissing the suit for possession by way of specific performance of the alleged agreement of sale, which admittedly is also oral. Producing two witnesses to make self serving

statements on behalf of the plaintiff is not enough to secure a decree under the Specific Relief Act, 1963 when the alleged transactions were vague and inchoate and not acted upon. Owner had every right to cancel the power of attorney and sell his property as per his wishes. Moreover, the owner died after the suit was brought in the civil court.

3. On facts available on file it can easily be held that there was insufficient evidence adduced on file to prove an oral agreement to sell the suit property accompanied by a document purporting to be the likeness of a sale deed which remained unregistered and not binding on the rights of the owner.

4. On these manifest shortcomings, the appeal is found to be wholly devoid of merit and is hereby dismissed.

5. If the plaintiff invested his money in buying stamp papers in the fond hope and for the intended purposes of registration of the sale deed in the year 2003 and is to be believed on this, he may apply to the competent authority for refund of the money spent by cancellation of stamp papers in accordance with law, if law permits. However, no opinion is expressed on the request at the hearing on the appeal when made within sight of failure of the appeal on merits and the Court not convinced by the contentions raised by Mr. Ghai in the grounds of appeal.

(RAJIV NARAIN RAINA)
JUDGE

10.10.2017
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Whether speaking/reasoned Yes

Whether reportable No