

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

RSA No.4997 of 2017(O&M)

Date of Decision:- 21.11.2017

Naresh Kumar.

.....Appellant.

Versus

Smt. Santosh Rani & Ors.

.....Respondents.

Present:- Mr. Ashish Aggarwal, Senior Advocate assisted by
Mr. Ranjit Saini, Advocate for the Appellant.

JASWANT SINGH, J.

Appellant-Plaintiff is in second appeal aggrieved against the concurrent findings returned by both the Courts below, whereby his suit for possession by way of specific performance of the agreement to sell dated 11.07.2008 has been dismissed by Additional Civil Judge(Sr. Divn.), Yamuna Nagar vide judgment and decree dated 26.09.2013 and the findings thereof have been affirmed by learned Additional District Judge, Yamuna Nagar at Jagadhari vide judgment and decree dated 12.05.2017.

Learned Counsel for the appellant has argued that both the Courts below have wrongly held that the agreement to sell in question is a doubtful document, in view of the fact that the plaintiff had

conclusively discharged his onus by examining Jaipal and Kurdia Ram (both attesting witnesses of the agreement to sell dated 11.07.2008) as PW-2 & PW-3 respectively. He has further argued that even if expert witnesses of both the parties are not taken into consideration still, plaintiff-appellant was able to prove the due and valid execution of the agreement to sell in question by examining the aforementioned witnesses. Thus, prayer has been made for acceptance of the appeal.

After hearing learned Counsel for the appellant and perusing the paper book, this Court is of the considered view that the present appeal is devoid of any merit and deserves to be dismissed.

Both the Courts below have recorded concurrent finding that there is no evidence lead by the plaintiff in order to show that Rs.20 lac were withdrawn from any bank account which were allegedly paid as earnest money to the defendants. The stock witnesses of the plaintiff namely Bhagat Pal, PW-5 and Manoj Kumar PW-6 are also of no help to the plaintiff because they have also not been able to prove either their source of amount lent to plaintiff or any writing through which the said amount was paid to plaintiff.

Not only this, I have perused the agreement to sell myself and am in complete agreement with the findings of the courts below that the agreement to sell itself is a doubtful document. The manner in which signatures of respondent-alleged vendor Santosh Rani appeared on the agreement to sell in question, creates a doubt regarding the due and valid execution of the agreement. The Appellate Court in para

no.18 of the judgment has rightly held that the pattern of the signatures are not in normal routine and in fact, gives credence to the story of the defendant/respondent that her signatures were taken on blank papers. This fact gains more significance from the fact that plaintiff-appellant was the *Sarpanch* of the village and also the *Lambardar* on the day when the stamp papers have been bought. Santosh Devi-defendant no.1 was accompanied by her *Bua* Dayawanti (an old lady), who executed the sale deed in favour of Santosh Rani (defendant no.1). Concededly on that day, three stamp papers were purchased i.e. one for execution and registration of sale deed; second for execution of power of attorney by Santosh Devi in favour of plaintiff-appellant for sanction of mutation etc., and the third i.e. the present disputed agreement to sell. Keeping in view the nature and position which the plaintiff/appellant held, of being a *Sarpanch* as well as *Lambardar* of the village, he could have very well got the signatures on blank stamp papers which have been converted into the agreement in question.

Although, counsel for the appellant has relied upon **Bhola Singh Vs. Kulwant Singh 2012(19) RCR (Civil) 793**, **Surjit Singh Vs. Nanak Singh 2009(5) RCR (Civil) 191**, **Balbir Singh Vs. Sarup Singh 2004(2) RCR (Civil) 441** & **Jeet Singh Vs. Bahadur Singh 2009(4) RCR (Civil) 196**, however, none of the judgments are applicable to the facts of the case. It is settled proposition of law that peculiar facts and circumstances of each case are to be examined, considered and appreciated first before applying any codified or judge

made law thereto. Each case is to be decided as per its own peculiar facts and circumstances. Sometimes difference of even one additional fact or circumstance can make the world of difference, as held by Hon'ble Supreme Court in **Padmausundra Rao & Anr. Vs. State of Tamil Nadu & Ors. 2002(3) SCC 533.**

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

November 21st , 2017
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>