

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

**RSA No.583 of 2017 (O&M)
Date of Decision: 03.11.2017**

Ranbir Singh and another

... Appellants

Versus

Ram Chander and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R.S. Budhwar, Advocate,
for the Appellants.

ANIL KSHETARPAL, J. (ORAL).

CM No.1240 & 1241-C of 2017

For the reasons stated in the applications, supported by affidavits, delay of 19 days in refiling and 105 days in filing the present appeal is condoned.

Main Case.

The defendants/appellants are in Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

The plaintiffs had filed a suit for specific performance of the agreement to sell dated 11.07.2008 with respect to the land measuring 4 Kanals. The total sale consideration agreed upon i.e. Rs.15,00,000/- was paid and possession of the land was delivered. It was agreed that the sale deed would be executed on 10.07.2009. The plaintiffs came to the Court pleading that the defendants are refusing to honour the agreement.

The defendants on the other hand totally denied execution of

any agreement. It was pleaded that in fact, the defendants had offered the land for construction and running of a school - Shri Krishna Shiksha Samiti and it is under that pretext that the signatures were obtained.

Learned trial Court after appreciating the evidence available on the file decreed the suit. First appeal filed by the defendants/appellants was also dismissed after reappraisal of the evidence.

Learned counsel for the appellants has submitted that the Courts below have not taken into consideration the fact that the school is already existing on the land and, therefore, specific performance cannot be ordered. He has further submitted that the defendants/appellants have filed an application under Order 41 Rule 27 CPC to produce on record certain documents to prove that the school is being run from the aforesaid land.

I have considered the submissions of the learned counsel for the appellants and with his able assistance gone through the judgements passed by the Courts below as well as the application for additional evidence and the documents attached thereto.

The documents which are sought to be produced do not prove in any manner that from which portion of the property, the school is being run. Copy of the Jamabandi does not establish running of the school from the land in dispute. The land is shown as agricultural land except one house which is in the land measuring 01 Kanal 10 Marla only.

Taking into consideration the aforesaid facts, the application for additional evidence is dismissed.

As regards submission of the learned counsel for the appellants

that a school is being run from the land, it is suffice to say that the plaintiff and the defendant entered into an agreement to sell with open eyes. The agreement to sell is in writing. Both the defendants/appellants, who are brothers, have signed the agreement to sell in English. It is the finding of the Court that one of the defendants/appellants is a graduate. He has also admitted his signatures on the agreement to sell.

Taking into consideration the aforesaid facts, this Court does not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

The appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

03.11.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No