

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4138 of 2009(O&M)

Date of Decision: 17.04.2018

Amarjit Kaur & ors.

... Appellants

Versus

Murad & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. S.K. Arora, Advocate,
for the appellants.

Mr. J.P. Singh, Advocate,
for respondent No.1.

RAMENDRA JAIN, J.(Oral)

Through this regular second appeal, defendant has laid challenge to the judgment and decree of the First Appellate Court dated 24.03.2009 affirming the judgment of the trial Court dated 19.11.2007, whereby the suit of respondent No.1-plaintiff for specific performance of agreement to sell dated 24.05.2000 was decreed accepting alternative prayer for recovery of ₹3,60,000/- as damages and compensation for breach of agreement to sell in question.

Put pithily, respondent No.1 filed a suit for specific performance of agreement to sell dated 24.05.2000 against the appellants. The same was decreed vide judgment and decree dated 19.11.2007 by the trial Court.

Being aggrieved, the appellants preferred an appeal, but remained unsuccessful as the same was dismissed by the First Appellate Court vide judgment and decree dated 24.03.2009.

Learned counsel for the appellants *inter alia* contends that both the Courts below have failed to appreciate that passing of part sale

consideration as earnest money mentioned in the impugned agreement to sell (Ex.P-1) was not proved by respondent No.1 by leading any cogent and convincing evidence, inasmuch as Rashpal Singh (PW-3) witness to the impugned agreement to sell has categorically deposed that no sale consideration was paid by respondent No.1 to the appellants in his presence.

On the other hand, learned counsel for respondent No.1 strongly refuted the above submission of learned counsel for the appellants.

Having given anxious consideration to the submission made by both the sides, I find that the instant appeal is completely devoid of any merit for the reasons to follow.

Execution of the impugned agreement in question (Ex.P1) by predecessor-in-interest of the appellants in favour of plaintiff-respondent No.1 was proved by respondent No.1 beyond any shadow of doubt. The appellants could not rebut the same. To dislodge the impugned agreement to sell, the appellants were required to prove that their predecessors never executed any such agreement like a charge in criminal case. They failed to do so. Therefore, both the Courts below have rightly believed the agreement to sell (Ex. P-1).

In view of the discussion made above, this appeal fails and is dismissed.

17.04.2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No