

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

208

**RSA-2029-2011(O&M)
Date of Decision : 16.5.2018**

Sumer Chand and others

..... Appellants

Versus

Ramesh Chand

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rajinder Goyal, Advocate
for the appellants.

Mr. Arvind Bansal, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit for specific performance filed by the respondents.

Brief facts are that the respondent entered into an agreement to sell the property in dispute for a total consideration of Rs. 15,60,000/- on 11.10.2005 with the appellant. The appellants had denied the agreement to sell as forged and fabricated. The respondent had examined the deed writer and one of the attesting witnesses while as regards the appellants, Sumer Chand-appellant No.1 had appeared himself in support of their case.

The Courts below held that after the examination of the deed writer and the attesting witness the onus to prove that the agreement to sell was forged and was fabricated validly shifted on the appellants and

since they did not examine any handwriting and finger print expert it was held that the execution of the agreement to sell was proved. Counsel for the appellants has argued that this shifting of onus on the appellant was illegal, rather it was for the respondent to examine hand writing expert to prove the execution of the agreement to sell, especially since it was proved that the license of the deed writer had been suspended. In my considered opinion, this argument cannot succeed since there is no requirement that an agreement to sell has to be scribed by a regular deed writer. Resultantly, even if the license of scribe was suspended it would make no difference. As regards the argument about the onus the same also has to be rejected. Once the respondent had examined one witness and the scribe of the agreement to sell the onus had to be shifted on the other side.

Consequently, no fault can be found with the judgments of the Courts below. The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

16.5.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No