

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

RSA-874-2011(O&M)
Date of Decision : 8.5.2018

Kashmir Singh

..... Appellant

Versus

Bir Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Kulwant Singh, Advocate for the appellant.

None for the respondents.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below whereby a suit filed by the appellant for specific performance was partly decreed.

The appellant had filed a suit for specific performance of an agreement to sell 5 Kanals and 5 Marlas of land. The respondent No. 2 had come forward saying that he was bona fide purchaser of 2 Kanals and 5 Marlas of land. No replication was filed by the appellant denying that fact nor any evidence was led by the appellant which would suggest that the respondent No.2 had knowledge of the existing agreement to sell in his favour. It was in these circumstance that the Courts below held that the respondent No.2 was bonafide purchaser and the appellant was entitled to specific performance of only 3 Kanals and not 5 Kanals and 5 Marlas. Learned counsel has argued that lack of bonafide of respondent No.2 are

clear from the fact that the agreement to sell was in favour of his son in law while the sale deed was in his favour. In my opinion, this fact by itself cannot show that respondent No.2 had knowledge of the agreement to sell in favour of the appellant. 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.

8.5.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No