

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

220

RSA No.5012 of 2012 (O&M)

Date of Decision : 07.05.2018

Bhagwan Dass

..... Appellant

Versus

Paramjit Kaur

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. V.P.Arora, Advocate
for the appellant.

Mr. M.S.Joshi, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

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

The case of the appellant was that the respondent had entered into an agreement to sell her house at Village Shamdo Tehsil Rajpura, District Patiala and had received earnest money.

The case of the respondent was of total denial. During the evidence the appellant examined himself and the scribe of the agreement to sell. The witness to the agreement to sell though accepted his signatures but stated that he had no knowledge of the contents. Moreover to prove his

readiness and willingness the appellant produced on record an affidavit which he had got attested from the Oath Commissioner.

Both the Courts below held that once the respondent had denied her signatures it was incumbent upon the appellant to have proved the same satisfactorily and in the present case even hand writing expert was not examined. Courts also held that by not appearing before the Registrar on the appointed date and by merely producing an affidavit attested by an Oath Commissioner the appellant could not be said to have discharged the onus of proving that he was ready and willing and consequently dismissed the suit.

Before me the learned counsel for the appellant has argued that the conduct of the respondent could well be gauged from the fact that in her cross-examination she denied her signatures on the written statement and the vakalatnama and even denied her own photograph in the sale deed by which she had purchased the property.

The Courts below have considered this aspect also and have dismissed the suit holding that it was for the appellant to stand on his own legs and he could not rely upon the weakness of the defence of the respondent.

In my considered opinion, no fault can be found with the judgments of the Courts below. It can not be lost sight of that the sole attesting witness was declared hostile. The appellant also did not take care to produce any hand writing expert to prove the signatures of the respondent. Even readiness and willingness was not proved.

Consequently, the appeal is dismissed.

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

07.05.2018

Pooja sharma-I

(AJAY TEWARI)

JUDGE

Whether speaking/reasoned

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Yes/No

Whether reportable

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Yes/No