

RSA-1230-2013 (O&M)

101

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

RSA-1230-2013 (O&M)

Date of decision : 26.11.2018

Kanwar Bai (deceased) through LRs and another

... Appellants

Versus

Sudama

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Bhawesh Chaudhary, Advocate
for the appellants.

AMIT RAWAL, J.

The appellant-defendant has not been successful in defending the suit for specific performance of agreement to sell dated 27.12.200 in respect of house consisting of four rooms, one kitchen and Verandah surrounded by four boundaries walls measuring 250 sq. yards agreed to be sold for a total sale consideration of ₹3,50,000/- against the payment of ₹70,000/- as earnest money. The stipulated date for execution and registration of the sale deed was fixed as 26.06.2006. However, the defendant did not appear and therefore, the suit aforementioned was filed.

The defendant in reply admitted the execution of the agreement to sell, but it was stated that the plaintiffs had interpolated the terms and conditions of the agreement by adding the constructed portion, for, only vacant plot was agreed to be sold. It is, in this background of the matter, the defendant did not appear before the office of sub-Registrar.

Mr. Bhawesh Chaudary, learned counsel appearing on behalf

RSA-1230-2013 (O&M)

of the appellant-defendant submits that both the Courts below have erroneously decreed the suit by not noticing the interpolation. It has not been established on record that the interpolation was on account of the consent of the defendant. The constructed portion had a higher value than the vacant plot. There is a misinterpretation of the word 'property' as the construction over the plot was not subject matter of the sale.

I am afraid the aforementioned argument is not sustainable as the defendant had not been able to establish the interpolation through the testimony of any independent witness or expert. The attesting witnesses PW-1 Sudama and PW-3 Sanjay Kumar, proved the execution of the agreement to sell and PW-4 B. Kashyap, Handwriting Expert. In view of the admission of non-appearance before the sub-Registrar, the Court below had no other option, but to decree the suit.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Chaudhary to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

26.11.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**