

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 1653 of 2013 (O/M)
Date of decision : 23.4.2018

Gurdev Singh

..... Appellant

Versus

Baljit Kaur

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Baljinder Singh, Advocate,
for appellant.

Mr. Kanwaljit Singh, Senior Advocate, with,
Mr. Sarthak Gupta, Advocate,
for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

Impugned in present regular second appeal is judgment and decree dated 9.10.2012, passed by learned District Judge, SBS Nagar, affirming judgment and decree dated 4.10.2011, passed by learned Additional Civil Judge (Senior Division), SBS Nagar, vide which suit of plaintiff was decreed and plaintiff was held entitled to specific performance of agreement to sell dated 25.8.2003. Defendant was directed to execute sale deed in favour of plaintiff within three months. Plaintiff was also directed to deposit remaining sale consideration within three months, so as to show readiness and willingness.

I have heard the learned counsels for parties and have also carefully gone through the file.

Plaintiff had claimed in the plaint that defendant executed

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agreement to sell dated 25.8.2003 in her favour regarding sale of land measuring 26 kanal being 1/3rd share of land measuring 77 kanals 19 marlas after receiving Rs. 9,00,000/- as earnest money. The sale deed was to be executed on or before 28.2.2004. Defendant further received additional earnest money of Rs. 2,15,000/- on 3.9.2003 and executed a separate receipt in favour of plaintiff. Still another sum of Rs. 1,40,000/- as additional earnest money was received on 3.9.2003 as a price of super structure of poultry farm shed from plaintiff regarding which a separate receipt was executed. Plaintiff claims that since 28.2.2004 was Saturday and 29.2.2004 was Sunday, therefore, he appeared on 1.3.2004 in the office of Sub Registrar, Nawanshahr to get sale deed executed, but defendant did not turn up to perform his part of contract. She is still ready and willing to perform her part of contract.

Defendant on the other hand claimed that alleged agreement is forged and fabricated document as defendant never entered into any agreement to sell with him. Suit property is ancestral property and earlier belonging to forefathers of defendant and he inherited same from his father. Defendant is a drunkard man and used to sit with husband of plaintiff many a times for consuming alcohol. It is possible that by taking advantage of drunkard condition of defendant, plaintiff might have taken signatures of defendant on some papers. Defendant denied to have executed any document and also denied to have received any earnest money.

From the pleadings, following issues were framed :-

1. Whether defendant entered into an agreement to sell dated 25.8.2003 in favour of the plaintiff? OPP
2. If issue No. 1 is proved in favour of plaintiff, whether plaintiff

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is entitled for specific performance of agreement to sell dated 25.8.2003 ?

OPP

3. Whether in the alternative, plaintiff is entitled for recovery of Rs. 19,50,000/- as prayed for ? OPP

4. Whether plaintiff has not come to the Court with clean hands ? OPD

5. Relief.

Both the Courts are of the concurrent view that agreement to sell is proved and receiving of earnest money has also been proved.

The learned counsel for appellant has argued that in this case, sale consideration was grossly inadequate. It is not possible that defendant will execute agreement. Both the Courts below have taken the view that it is beyond pleadings. Case of defendant is that he is a drunkard man and used to sit with husband of plaintiff for consuming alcohol. Plaintiff might have got his signatures when he was in drunkard condition. He voluntarily did not execute any document. However, in addition to execution of agreement, there are two receipts executed on subsequent dates on 3.9.2003 regarding payment of additional earnest money. The concurrent finding of facts have been recorded by two Courts below. There is no illegality or perversity in the concurrent findings of two Courts below. Therefore, there is no ground to interfere in concurrent findings of two Courts below. Consequently, regular second appeal is dismissed.

(KULDIP SINGH)
JUDGE

23.4.2018

sjks

Whether speaking / reasoned	:	Yes / No
Whether Reportable	:	Yes / No