

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

120

**RSA No.1116 of 2016 (O&M)
Date of decision: 21.05.2018**

Naresh Kumar and others

..... Appellants

Versus

Sarishta Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vishal Aggarwal, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

The plaintiffs filed the suit for symbolic possession by way of specific performance of the agreement to sell dated 18.01.1986. The suit was filed on 05.10.2005. It is not in dispute that defendant No.1 filed a suit for declaration that he is owner in possession of the property in the year 2000. The plaintiff herein who was the defendant in the aforesaid suit pleaded his agreement to sell. Both the Courts have held that since the defendant had filed a suit for declaration claiming to be owner in possession, therefore, refusal of the defendant to honour the agreement to sell was proved and cause of action to file a suit for specific performance in favour of the plaintiff-appellant started therefrom. The Court has noticed that the present suit has been filed after a period of 19 years from the date of agreement to sell and after 5 years from the date civil suit was filed against the plaintiff.

In view of the aforesaid, there is no ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

21.05.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No