

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

**(1) RSA No.1534 of 2016 (O&M)
Date of Order:02.05.2018**

Budh Raj and others

..Appellants

Versus

Sunil Kumar and another

..Respondents

(2) RSA No.4099 of 2016 (O&M)

Budh Raj

...Appellant

Versus

Sunil Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parminder Singh, Advocate,
for the appellants.

ANIL KSHETARPAL, J(Oral)

By this judgment, Regular Second Appeal Nos.1534 and 4099
of 2016 shall stand disposed of.

Both these appeals arise out of cross suits filed by the
respective parties. Hence, parties would be referred by their names.

Budh Raj etc., children of Prem Singh, filed a suit for
injunction whereas Sunil Kumar and another, sons of Sompal filed a suit for
specific performance of the agreement to sell dated 03.03.1992. Plaintiffs
also prayed for setting aside of the gift deed dated 18.06.2006 executed by
Prem Singh.

Plaintiff-Sunil Kumar and another pleaded that late Sh. Prem
Chand had entered into a full payment agreement to sell dated 03.03.1992
with respect to land measuring 2 marlas and possession thereof was

delivered to Sunil Kumar and Sushil Kumar. It was further pleaded that there was no target date for execution and registration of the sale deed and, therefore, Sunil Kumar and Sushil Kumar, plaintiffs, in one of the suits served the defendant with a notice calling upon them to come and execute the sale deed. They remained present before the Sub-Registrar that date as notified, however, Budh Raj etc. did not turn up.

Defendant-Budh Raj etc. contested the suit and pleaded that the agreement is fake, fabricated and manipulated document.

Plaintiff Sunil Kumar and others in order to prove execution of the agreement to sell examined Dharampal, the attesting witness and also examined Gagandeep, grand son of the stamp vendor, to prove that predecessor in interest of Budh Raj etc. had purchased the stamp paper for execution of the agreement to sell. Plaintiffs also examined DW8, a revenue officials to prove that they are in possession after raising construction on the plot in question.

Both the courts on examination of evidence available on the file have decreed the suit filed by Sunil Kumar and others i.e. for specific performance of the agreement to sell and consequently dismissed the suit for injunction filed by Budh Raj etc.

Learned counsel for the appellant has vehemently argued that the agreement to sell records delivery of possession and therefore, it was compulsorily registrable as per amendment in Section 17 of the Registration Act.

This court has considered the submission.

First of all the amendment in Section 17 of the Registration Act, 1908 was inserted by Act No.48 of 2001. In the present case, the

agreement to sell is dated 03.03.1992. Still further the amendment in Section 17(1)(a) is for the purpose of protecting possession pursuant to the agreement to sell under Section 53A of the Transfer of Property Act. Such amendment does not debar filing of suit for specific performance of the agreement to sell coupled with delivery of possession. This aspect has already been conclusively decided by a Division Bench of this Court in the case reported as **Ram Kishan and another v. Bijender Mann alias Vijender Mann and others, (2013) 2 CCC 188.**

In view of the aforesaid, this court does not find any good ground to interfere with the findings of fact arrived at by the courts below.

Both the regular second appeals are dismissed.

May 02, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No