

241

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1760-2016
Date of decision : 30.01.2018

Jagjit Singh

... Appellant(s)

Versus

Bhag Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. C.R. Dahiya, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent findings of fact, whereby the suit seeking specific performance of the agreement dated 01.12.1993 in respect of a land measuring 20 kanals, agreed to be sold for a total sale consideration of ₹ 16 Lacs, which in entirety was paid by also seeking further relief for setting aside the sale deed dated 29.04.2008 executed during the subsistence of the agreement to sell, has been dismissed by both the Courts below.

Learned counsel for the appellant-plaintiff submits that both the Courts below have committed illegality and perversity in non-suited the plaintiff in not granting the discretionary relief, much less, alternative relief on the premise that the agreement to sell was not proved, which is totally incorrect, misdirection, much less, perversity. Defendant No.1 had contested the suit by filing separate written statement denied the execution of the agreement and also took a plea that the plaintiff was able to prove ingredients of Section 16(c) of the Specific Relief Act, whereas defendant

Nos.2 and 3 have filed a separate written statement stated that the land vide sale deed dated 29.04.2008 had been sold by the defendant No.1 in their favour without any fear and favour, but out of own volition. The appellant-plaintiff had examined Devi Lal, Member of Block Samiti as witness to the agreement to sell, but the Courts below ignored the aforementioned evidence, for, said witness did not appear for cross-examination. The Courts below also non-suited the plaintiff for want of readiness and willingness to perform the part on the agreement to sell on premise that his presence on the stipulated date fixed for registration and execution of the sale deed was not marked, thus, urges this Court for formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard the learned counsel for the appellant-plaintiff and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Dahiya, as Risal Singh, alleged witness of the agreement to sell has appeared as PW-2, though apparently supported the case of the appellant-plaintiff, but in cross-examination admitted that it was a typed document and the name of the vendor was also typed, but the name, father's name and address of the witnesses were not given. The other witness, Surender Singh also appeared as PW-7, who in cross-examination deposed that the agreement was not written in his presence. The plaintiff and defendant No.1 also not appended their signatures in his presence. The Courts below after looking into evidence of the aforementioned witnesses, in my view, rightly found that there was no execution of the agreement to sell, even, did not order for refund of the money as there was no separate receipt, which could have enabled the appellant-plaintiff to prove the same.

For the foregoing reasons, I do not find any illegality and

perversity in the judgments and decrees rendered by the Courts below as the same are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination. The present regular second appeal is dismissed.

30.01.2018 Yogesh Sharma	(AMIT RAWAL) JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No