

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

**101**

**CM-6732-C-2016 in/and  
RSA-2536-2016 (O&M)  
Date of Decision : 24.07.2018**

Gurdev Singh ..... Appellant

Versus

Joginder Singh ..... Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**  
**\*\*\***

Present :- Mr. Vipin Mahajan, Advocate  
for the appellant.  
**\*\*\***

**AJAY TEWARI, J. (Oral)**

**CM-6732-C-2016**

For the reasons recorded, the application is allowed. Delay of 13 days in filing the appeal is condoned.

**RSA-2536-2016 (O&M)**

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit for specific performance filed by the respondent.

The only argument raised by the counsel is that it was the case of the appellant that in fact no agreement to sell had been executed by him. He points out that against the total sale consideration of Rs.8,50,000/- it was alleged that the respondent had paid a sum of Rs.8 lakhs and even the date for execution of the sale deed was fixed after six months. As per the counsel, this is highly improbable.

In my opinion, the point is well taken but I asked the counsel whether this plea was taken in the written statement or whether this was ever put to the respondent when he appeared to give his testimony, he has fairly stated that neither this point was taken in the written statement nor any question was put to the respondent in this regard when he appeared to give his testimony. In the circumstances, the mere fact that this is a strange transaction would not shift the preponderance of probability which both the courts below held in favour of the respondent because the respondent had examined the scribe and the witnesses.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

July 24, 2018  
ashish

(AJAY TEWARI)  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | - | Yes/No |
| Whether reportable        | - | Yes/No |