

103

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

RSA No. 2700 of 2016 (O&M)
Date of Decision: 21.09.2018

Kulwinder Kaur

-Appellant

Vs

Inderjit Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Avtar S. Khinda, Advocate,
for the appellant.

RAJ MOHAN SINGH, J. (ORAL)

CM-7234-C-2016

For the reasons mentioned in the application, delay
of 24 days in re-filing the present appeal is condoned.

Application stands disposed of.

RSA No. 2700 of 2016 (O&M)

Defendant is in regular second appeal against the
concurrent judgments and decrees passed by both the Courts
below in a suit for specific performance.

The suit was filed on the basis of agreement to sell
dated 11.03.2005 whereby defendant had agreed to sell her
house to the plaintiff for a consideration of Rs.2 lacs. Earnest
money to the tune of Rs.1 lac was paid in the presence of the

witnesses. Thereafter, the date for execution of sale deed was extended mutually by way of endorsing the dates which were duly witnessed by the attesting witnesses.

The defence was taken by the defendant that the plaintiff as well as husband of the defendant were the Granthis at Sunder Nagar, Kapurthala and her husband took a loan of Rs.5000/- from the plaintiff and in lieu thereof, plaintiff received a cheque from her husband and also got signatures of her husband on some blank papers. The plea of fraud taken by the defendant could not be substantiated by way of leading any cogent evidence. Even husband of the plaintiff was not examined.

For want of evidence on the plea of fraud, both the Courts below have observed that plea of fraud was required to be proved by the defendant with reference to pleadings as well as material evidence.

Since the defendant has not led any evidence of fraud, therefore, in my considered opinion, the findings of fact recorded by both the Courts below particularly when the execution of agreement to sell was lawfully proved with reference to statements of scribe and attesting witnesses, cannot be re-appreciated in regular second appeal.

No question of law worth cognizance of this Court is involved in the present appeal.

This appeal is found to be totally devoid of merits and the same is accordingly, dismissed in limine.

21.09.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No