

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

**RSA No.284 of 2016 (O&M)**

**Date of decision:26.11.2018**

Gurmukh Singh

... Appellant

Vs.

Bhola Singh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Manish Kumar Singla, Advocate  
for the appellant.

**AMIT RAWAL J. (Oral)**

The appellant-plaintiff has not been successful in seeking the discretionary relief, though the trial Court dismissed the suit holding agreement to sell dated 24.05.2006 was not proved but the Lower Appellate Court held it otherwise but endorsed the finding with regard to non-grant of discretionary relief.

It was alleged that Joginder Singh had agreed to sell the land subject matter of the aforementioned agreement to sell, after receipt of earnest money of ₹20,000/- by fixing the date as 31.08.2006 for execution and registration of the sale deed. Joginder Singh was not keeping good health and had been putting up the matter on one pretext or the other. On his demise immediately, a legal notice was served on successors on 09.05.2009 and the suit was filed on 31.08.2009. Thus, readiness and willingness had been proved on record, much less equipment of balance sale consideration.

I am afraid the aforementioned argument is not sustainable, for, after the execution of the agreement to sell, Joginder Singh remained alive for 3 years and 3 months approximately. There is not a single whisper with regard to complying with the ingredients of Section 16(c) of Specific Relief Act, 1963. The readiness and willingness has to be proved from the date of agreement, till filing of suit and during the pendency of suit.

It has also come on record that Joginder Singh had already sold the land to Bhola Siongh, vide sale deed dated 05.10.2005. In such circumstances, the Court below had rightly declined the discretionary relief.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)  
JUDGE

November 26, 2018  
savita

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |