

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

**RSA No.3137 of 2016 (O&M)
Date of Decision.31.10.2018**

Sarwan Singh (deceased through LRs) and anotherAppellants

Vs

Gurinder Singh ...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Akshit Aggarwal, Advocate for
Mr. Sherry K. Singla, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

C.M. No.8447-C of 2016

For the reasons stated in the application, delay of 3 days
in filing the appeal is allowed.

Application is allowed.

RSA No.3137 of 2016

The appellants-plaintiffs have not been successful in seeking discretionary relief in suit claiming specific performance of agreement to sell dated 25.10.2005 in respect of land measuring 2 bighas agreed to be sold @ ₹2 lakhs per bigha against the payment of earnest money of ₹2,74,000/-. The suit aforementioned was filed on 14.06.2008 by pleading that the stipulated date of 25.11.2005 was extended to 27.12.2005.

The defendant contested the suit and denied the agreement to sell by stating that there was no occasion for entering into agreement as there was a litigation. It is in these circumstances, the Court confined the relief to the alternative relief.

Mr. Akshit Aggarwal, learned counsel appearing on behalf of the appellants submitted that once the readiness and willingness, much less, execution of the agreement had been proved, there was no occasion for the Courts below to decline the discretionary relief, as the pleadings were conforming to the provisions of Section 16(c) of the Specific Relief Act.

I am afraid the aforementioned argument is not sustainable, as it has been proved on record that the property allegedly agreed to be sold was under litigation and therefore, the defendant had no occasion to enter into agreement to sell. The share of the land was attached in a case titled "*Harvinder Singh Vs. Gurinder Singh and others*". There was a reflection of the same in the jamabandi vide rapat No.34 dated 11.09.2003. The aforementioned piece of evidence could not be rebutted by the plaintiffs.

In view of the above, I do not subscribe to the submissions of Mr. Aggarwal to form a different than the one already arrived at. I do not find any illegality and perversity in the judgments and decrees passed by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 31, 2018

Pankaj*

Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No