

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

RSA No.3154 of 2016 (O&M)

Date of decision:05.12.2018

Lakhwinder Singh

... Appellant

Vs.

Dharam Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.K.Arya, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant No.1 has not been successful in defending the suit for specific performance of the agreement to sell dated 11.05.2007, whereby, the land agreed to be sold for a total sale consideration of Rs.3,57,000/- against the receipt of earnest money of Rs.50,000/- .

The plaintiffs alleged that the stipulated date for execution and registration of the sale deed was 10.07.2007 but defendant no.1 had sold the property in dispute to defendant no.2.

The defendants opposed the suit and denied the execution and registration of the sale deed much less receipt of earnest money or price which is stated to be forged and fabricated document. It was stated that defendant no.2 was a young boy and was addicted to drugs. Defendant no.1 went to the house of the plaintiffs to mourn on the death of family member

where the plaintiffs stated to have taken the signatures on some blank papers. The appearance of the plaintiffs before the office of Registrar was also denied. In such circumstances, there was no embargo upon defendant no.1 to execute the sale deed.

The plaintiffs in support of the aforementioned assertion, examined Bhupinder Kumar, deed writer as PW1 and Dharam Singh, himself as PW2 and closed the evidence. On the other hand, defendants examined Bashan Singh as DW1; Anchal Singh as DW2; Mahinder Pal Numberdar as DW3, Lakhwinder Singh himself as DW4 and Raj Kumar as DW5.

Mr. R.K.Arya, learned counsel appearing on behalf of the appellant submitted that the plaintiffs failed to prove on record the execution of the agreement to sell, much less readiness and willingness as there was emphatical denial to the agreement to sell, thus, the finding has come on record as to whether the blank papers having the signatures been used or otherwise. There was no intention on behalf of the appellant to sell the land.

I am afraid the aforementioned argument is not sustainable as scribe and attesting witnesses have not only proved the execution of the agreement to sell but receipt of earnest money. During the subsistence of the agreement to sell, sale deed was executed, whereas, suit was filed immediately on 19.05.2007. In such circumstances, the subsequent vendees cannot be accorded any protection being bonafide purchasers in respect of sale deed executed during the subsistence of the agreement to sell in the

absence of proof of prior agreement to sell.

As an upshot of my findings, I do not find any illegality and perversity in the findings rendered by both the Courts below 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.

The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

December 05, 2018
savita

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