

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

112

**CM-8695-C-2016 in/and
RSA-3266-2016 (O&M)
Date of Decision : 27.08.2018**

Santosh Devi

..... Appellant

Versus

Makhan Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. P.K.S. Phoolka, Advocate
for the applicant-appellant.

AJAY TEWARI, J. (ORAL)

CM-8695-C-2016

For the reasons recorded, the application is allowed. Delay of 6 days in refiling the appeal is condoned.

RSA-3266-2016 (O&M)

This appeal has been filed against the concurrent judgments of the courts below dismissing a suit for injunction filed by the appellant.

The appellant had pleaded that she had purchased a plot measuring 30x60 feet from the respondent No.1. In front of that plot there was an open space of 60x100 feet but as per the law no construction could be made on that belt and actually in the original agreement to sell (which had fructified into the sale deed) the respondent No.1 had categorically admitted that as and when the bar of construction would be lifted he would sell that remaining 60x100 feet of land to the appellant. It was further pleaded that at the time of the sale deed the possession of that 60x100 feet was also given to the appellant. It was further pleaded that

now the respondent No.1 had started installing illegal khokhas on that land and that is why the appellant had filed a suit for injunction. Both the courts below held that a bare mention in the original agreement to sell that in future the respondent No.1 would sell the land to the appellant without the appellant paying any earnest money therefor would not give any right to the appellant in the property and consequently dismissed the suit.

While arguing the present appeal, counsel again relied upon that stipulation in the agreement to sell. However, has not been able to deny that that promise could not be specifically enforced because the appellant had not paid any earnest money for the same. Once that is so, it has to be held that the appellant had no right, title and interest in that piece of land.

As regards the argument that the respondent No.1 is trying to raise illegal khokhas, that is a matter between the government and the respondent No.1.

With these observations, the appeal is dismissed.

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

August 27, 2018
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(AJAY TEWARI)
JUDGE

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