

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CM No.9340-C-2016 in/and
RSA No.3571 of 2016 (O&M)
Date of Decision : 12.07.2018

Surinder Kumar

..... Appellant

Versus

Avinash Kaur

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Vishal Aggarwal, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM No.9340-C-2016

For the reasons recorded, the application is allowed. Delay of
16 days in re-filing the appeal is condoned.

RSA No.3571 of 2016

This appeal has been filed against the judgment of the lower
appellate Court reversing that of the trial Court and thereby dismissing a
suit for specific performance filed by the appellant.

The case of the appellant was that he had agreed to purchase
the shop in dispute from the respondent for a total consideration of
Rs.3,50,000/- out of which he had paid the earnest money of Rs.2,00,000/-
at different stages. The respondent denied that she had executed any

agreement to sell. To prove the said agreement the appellant produced a hand writing expert who deposed that the signature of one of the marginal witnesses was proved and since that marginal witness happened to be the husband of the owner the trial Court held that the execution of the agreement to sell was made. The appellate Court however held that once the respondent had denied her signatures on the agreement to sell it was incumbent upon the appellant who had proved the signatures. Moreover the appellate Court also noticed that even the marginal witness who had appeared did not state that the seller had signed the agreement to sell in his presence. It was *inter-alia* for these reasons that the appellate Court allowed the appeal.

In my considered opinion also the reasons which have found favour with the appellate Court have to prevail. The appellant has not led any evidence to prove that the respondent signed the document except his own bald statement which was not even corroborated by the marginal witness.

In the circumstances, no fault can be found with the judgments of the Courts below.

Appeal is dismissed.

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

(AJAY TEWARI)
JUDGE

12.07.2018
Pooja sharma-I

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