

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

**RSA No.3777 of 2016 (O&M)
Date of Decision.08.05.2018**

Mainpal

.....Appellant

Vs

Munshi Ram

.....Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikram Singh, Advocate
for the appellant.

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AMIT RAWAL J.(ORAL)

The appellant-defendant is aggrieved of the concurrent finding of fact whereby the suit for specific performance of agreement to sell dated 01.10.2009 in respect of 1 kanals 10 marlas for a total consideration of Rs.2,62,500/- against the receipt of earnest money of Rs.80,000/- has been decreed by the trial Court and affirmed by the lower Appellate Court.

Mr. Vikram Singh, learned counsel appearing on behalf of the appellant submitted that the suit aforementioned was not maintainable, for, the appellant in the written statement denied the execution of the agreement, for, the plaintiff had obtained the signatures of the defendant before the police and converted the same into agreement to sell. On 10.09.2008, an FIR under Section 376 of the Indian Penal Code was registered against the defendant by prosecutrix, Chameli Devi. The plaintiff had been nursing rancour against the defendants, for, he had an eye on the land purchased by the defendant from third party vide sale deed dated 22.10.2007. All these factors were specifically proved on record through documents but the Courts below did not advert to the same, therefore, there is illegality and perversity. The attesting witnesses have also proved execution of the agreement to sell, much less, the receipt of earnest money and therefore, the suit was liable to be dismissed as the same

could not be brought for exercising discretion under Section 20 of the Specific Relief Act.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Vikram Singh, for, the plaintiff has in support of the evidence examined Gajraj Singh as PW2, one of the attesting witness of the agreement to sell, who categorically stated that the defendant had entered into agreement to sell and the receipt of Rs.80,000/- as earnest money. The target date in the aforementioned agreement was 01.03.2010 which was later on extended to 01.06.2010 by mutual consent and the suit was filed on 11.6.2010. The readiness and willingness cannot be stated to be wanting. In case, the written statement contained the forged signatures of the defendant or had been obtained by fraud, nothing prevented the defendant to take other remedy or measures or seek cancellation of the agreement. No such steps have been taken. It is common practice for the parties to come up with a different version, for, the complainant Chameli Devi had no relationship with the plaintiff and therefore, the story coined with regard to involvement of the defendant in the aforementioned criminal case cannot be looked into for adjudication of the civil dispute.

In view of the aforementioned, the finding of fact and law arrived at by both the Courts below do not suffer from illegality and perversity, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 08, 2018
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No