

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

**RSA No.3976 of 2016
Date of Decision.11.05.2018**

Amrish Mehngi

.....Appellant

Vs

Puran Kumar Bagga and another

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.K. Kalsy, Advocate
for the appellant.

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AMIT RAWAL J.(ORAL)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the suit seeking declaration that the agreement to sell dated 17.12.2005 to be declared as revoked, cancelled, inoperative and against the terms and conditions of the said agreement and mandatory injunction directing the defendants to hand over the vacant possession of house No.B-V-479 situated in VPO Sahenwal, District Ludhiana with consequential relief of permanent injunction restraining the defendants from raising any construction, making additions, alterations or changing shape of the property has been dismissed by the trial Court and upheld by the lower Appellate Court.

The aforementioned suit was filed on the premise that the vendee did not come forward for execution of the sale deed with regard to suit property, rather defendants illegally encroached upon the suit property. Despite many requests, the defendants did not adhered to the same, compelling the plaintiff to file the present suit.

The suit was contested by the defendants by raising

preliminary objections. On merits, it was averred that agreement to sell dated 17.12.2005 was cancelled and a fresh agreement dated 13.01.2006 was entered between the parties and a counter-claim was laid by the defendants seeking symbolic possession by way of specific performance of agreement to sell dated 17.12.2005 and subsequent agreement to sell dated 13.01.2006. The trial Court has dismissed the suit and as well as the counter claim and affirmed by the lower Appellate Court.

Mr. Abhimanyu Kalsy, learned counsel appearing on behalf of the appellant-plaintiff submitted that judgments and decrees of the Courts below are not sustainable in the eyes of law, for, there is no cross-examination to the statement made by the appellant with regard to execution of the subsequent agreement to sell. Both the Courts below have misread the deposition of PW3, Satish Kumar. It has duly been proved on record that signatures of plaintiff and PW3 were obtained on blank stamp papers, which were meant for obtaining loan and the possession had been taken illegally and forcibly. Both the Courts below did not advert to the fact that the agreement to sell had become unenforceable being a forged and fabricated document. Even the payment of Rs.1 lac as earnest money had not been proved on record, thus, urges this Court for setting aside the judgments and decrees under challenge.

I have heard learned counsel for the appellant-plaintiff, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Kalsy, for, the appellant-plaintiff has miserably failed to prove that the agreement to sell was forged and

fabricated, much less, they signed on blank papers. The Courts below noticed that after the agreement was written, a sum of Rs.20,000/- was received by the plaintiff but in cross-examination he gave a different story that the agreement was made for Rs.1 lac and the remaining was to be paid at the time of registration of the sale deed. No sane person would hand over the possession without getting the sale deed registered. The story coined of alleged forcible dispossession had not been proved. Different versions came in the plaint and as well as the criminal proceedings which were investigated by the police. All these factors weighed in the mind of the Courts below while appreciating the oral and documentary evidence.

In view of the aforementioned, the argument of Mr. Kalsy has not been able to bring the case within the realm of illegality and perversity enabling this court to form a different opinion than the one already arrived at by the Courts below, 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 11, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No