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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4526-2016 (O&M)

Date of decision : 09.02.2018

Sahi Ram

... Appellant(s)

Versus

Khusi Ram

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jai Singh Yadav, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent findings of fact, whereby the suit seeking specific performance of the agreement to sell dated 14.09.2006 in respect of land measuring 1 kanal, agreed to be sold @ ₹30,000/-, which in entirety was paid, has been dismissed by both the Courts below.

Learned counsel appearing on behalf of the appellant-plaintiff submits that though the agreement to sell was denied by the defendant treating to be a loan transaction, but the fact of the matter is that both the parties were related to each other and in respect of other land measuring 1 kanal, there is already sale deed dated 05.10.2005 in the name of plaintiff. This fact has not been taken into consideration by the Courts below. Both the attesting witnesses, namely, Ramniwas son of Parbhati Lal and Roop Chand son of Juglal, were examined, even the scribe-Bali Singh, much less, PW-1 Chandram, Stamp Vendor, who admitted of having sold the stamp paper Ex.PW1/A, thus, the agreement to sell was proved as per provisions of Section 68 of the Indian Evidence Act, but the Courts below declined to grant discretionary relief on the premise that the agreement to sell did not

envisage the descriptions of the property, much less, fard or jamabandi and ignored the sale deed *ibid*, thus, there is an abdication, much less, illegality and perversity.

I have heard the learned counsel for the appellant and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Yadav for, the agreement to sell is bereft of the particulars/descriptions of the property, even the stamp-vendor in cross-examination stated that the vendor had purchased the aforementioned stamp paper for the purpose of affidavit and not for agreement to sell, it casts a shadow on the statement of the plaintiff(s), much less, of the attesting witnesses. PW-3 Roop Chand, one of the attesting witnesses stated Ramniwas was not the attesting witness. All these factors weighed in the mind of the Courts below while denying the relief. The execution of sale deed was not connected with the aforementioned agreement to sell dated 14.09.2006, whereas the sale deed is of the year 2005, much less, whether, description given in the sale deed is the one given in the agreement to sell.

For the foregoing reasons, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below as the same are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination and accordingly, the present regular second appeal is dismissed.

09.02.2018

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes**

Whether Reportable **No**