

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

RSA No.4949 of 2016 (O&M)

Date of decision : 10.08.2018

Thawar Singh

...Appellant

Versus

Rajbir and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Mittal, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the Regular Second Appeal against the judgment passed by the First Appellate Court decreeing the suit for specific performance of the agreement to sell qua half share of the property.

The plaintiff filed a suit for possession by way of specific performance of the agreement to sell dated 29.07.2004 executed by defendant Nos.1 to 3 with respect to the property namely the house for a total sale consideration of ₹60,000/- which was paid at that time.

According to the plaintiff, no target date for execution and registration of the sale deed was fixed and, therefore, he served a notice and filed a suit on 13.12.2006.

The defendants contested the suit and pleaded that defendant Nos.1 to 3 were only owners to the extent of half share of the house, as remaining half belongs to Ram Chander son of Hardev who has constructed

his kaccha house in the aforesaid portion.

The First Appellate Court after finding that defendant Nos.1 to 3 were only the owners to the extent of half share, has modified the decree passed by the trial Court decreeing the suit with respect to half share which was owned by defendant Nos.1 to 3. It is not disputed before this Court that no evidence was led by the plaintiff to prove that defendant Nos.1 to 3 were owners of the entire plot in dispute. In absence of any evidence to prove that defendant Nos.1 to 3 were owners of the entire suit property, no error can be found in the judgment passed by the First Appellate Court.

It may be noted that the plaintiff when appeared in the evidence, admitted that defendant No.4 alongwith father of defendant Nos.1 to 3 had purchased the property.

In view of the aforesaid admission, no further evidence was required. Admission is the best piece of evidence.

In view thereof, there is no ground to interfere.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

10.08.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No