

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

**RSA No.5240 of 2016 (O&M)  
Date of Order:02.07.2018**

**Sukhwinder Singh**

**..Appellant**

**Versus**

**Jagroop Singh and another**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Nakul Sharma, Advocate,  
for the appellant.

**ANIL KSHETARPAL, J(Oral)**

Defendant No.2-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below while decreeing the suit for specific performance of the agreement to sell dated 03.01.2004.

Defendant no.2-appellant is a subsequent purchaser of the property. Initially both the defendants did not appear inspite of service of notice and the suit was ex-parte decreed on 14.06.2007. Defendant no.2-appellant filed an application under Order 9 Rule 13 of the Code of Civil Procedure for setting aside the ex-parte decree, which was ultimately allowed by the Hon'ble Supreme court subject to costs.

Defendant no.2-appellant contested the suit.

Both the courts again after appreciating the evidence available on the file decreed the suit for specific performance of the agreement to sell.

Learned counsel for the appellant, although, vehemently made an effort to persuade this court to take a different view, however on a

pointed question, learned counsel for the appellant fairly admitted that defendant no.2-appellant has not lead any evidence to prove that the agreement to sell dated 03.01.2004 is ante-dated. He has further admitted that as per the agreement to sell, the total sale consideration for the land in dispute was Rs.1,40,000, whereas his client purchased the same property for a sum of Rs.80,000/-, which clearly proves that the sale deed executed by defendant no.1 in favour of defendant no.2 was only to frustrate the right of the plaintiffs. Still further it has come on record that the plaintiff and defendant no.2-appellant are residents of the same village.

Learned counsel for the appellant could not draw attention of the court towards any substantive misreading or non reading of evidence available on the file.

Keeping in view that the sale deed has been executed in favour of defendant no.2, who is a subsequent vendor, therefore, defendant no.2 is directed to join defendant no.1 in execution of the sale deed in favour of the plaintiff. Defendant no.2 shall be entitled to move an application before the Executing Court for retaining the amount to be deposited by the plaintiff in the court enabling him to file a suit for recovery against defendant no.1, if so advised.

With these observations, the regular second appeal is dismissed.

**July 02, 2018**  
**nt**

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

: Yes/No  
: Yes/No