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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4341-2015 (O&M)
Date of decision : 02.05.2018

Khushwant Singh (deceased through LRs)

... Appellant(s)

Versus

Deepak and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gurcharan Dass, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

CM-10452-C-2015

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the delay of 89 days in re-filing the appeal is condoned.

RSA-4341-2015

The appellant is aggrieved of the concurrent findings of fact, whereby the suit seeking recovery of ₹7,30,833/- has been dismissed by the trial Court vide judgment and decree dated 20.09.2012 and affirmed by the lower Appellate Court vide judgment and decree dated 07.10.2014.

The appellant-plaintiff instituted the suit, aforementioned on the premise that he had sold the land having 1/8th share in 4B-16B-0B kham to the defendant for a total sale consideration of ₹18,95,833/-. The defendant paid a sum of ₹5 Lacs on 31.08.2005 and ₹6,65,000/- on

30.11.2005 by way of cheques, but did not pay the balance amount, therefore, sought recovery of the aforementioned amount.

The defence taken by the defendant was that the appellant-plaintiff had already executed a sale deed dated 30.11.2005 and in lieu of the agreement to sell dated 19.04.2005, entire payment had been paid as nothing was outstanding and prayed for dismissal of the suit.

The trial Court on the basis of the evidence brought on record did not agree with the contentions of the appellant-plaintiff, so did the lower Appellate Court.

Learned counsel for the appellant-plaintiff submitted that the contents of the sale deed dated 30.11.2005 showed that a sum of ₹6,65,000/- by way of cheque bearing No.635207 dated 30.11.2005 had been paid, thus, outstanding amount was due, for, the entire sale consideration had not been paid. The suit was filed on 20.02.2006. There was intentional delay on the part of the defendant. The plaintiff was deceived and befooled by the defendant. All these factors have not been noticed by the Courts below, thus, there is a gross illegality and perversity.

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. Dass, for, no sane person would execute a registered document dated 30.11.2005 without any payment of money. There would have been some force in the arguments of Mr. Dass, had some post dated cheque been paid, which had dishonoured. On the other hand, defendants proved on record the registered sale deed dated 30.11.2005 had been executed by plaintiff and entire payment was paid in lieu of agreement to sell. No contrary evidence had been led to show that there was non-

settlement of account. The arguments of Mr. Dass, are not able to bring the case within the realm of illegality and perversity or to form a different opinion than the one arrived at by the Courts below.

No ground is made out for interference, much less, no substantial question of law arises for determination.

The present regular second appeal is dismissed.

02.05.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/ No

Whether Reportable

Yes/ No