

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

RSA No. 4348 of 2015

Date of decision : 03.04.2018

Mohinder Singh

...Appellant

versus

Gurmej Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vishal Sharma Haritwal, Advocate
for the appellant.

RITU BAHRI, J.

This regular second appeal is directed against the concurrent findings of facts recorded by both the Courts below whereby the suit of the plaintiff-appellant (herein after to be referred as 'the appellant') for specific performance of agreement to sell dated 05.06.2003, has been dismissed.

The suit filed by the appellant was dismissed by both the Courts below on the ground that the description given in the agreement does not tally with the Revenue record. In the agreement, defendant No. 1 has shown to be owner-in-possession of the land by virtue of jamabandi for the year 2000-2001. However, the jamabandis do not show rectangle No. 111 Killa No. 4 min (2-16) in Khewat No. 6, Khatauni No. 15, 16, 17 as mentioned in agreement. Further there is a recital that the vendor will sell his remaining share in other khewats also to appellant but description of that land is not given.

Further P.W.3 and P.W.4 deposed that the earnest money was paid in presence of P.W.1 however, P.W.1 in his cross examination deposed that no

sale consideration was paid in his presence.

Defendant No. 2 was a bona fide purchaser who purchased land after making due verification from revenue record. Sale deed had been registered on 18.08.2003 in his favour and mutation has also been sanctioned in his favour. The appellant was rightly held entitled for recovery of Rs.70,000/- from defendant No. 1 who admitted taking the above said amount.

The finding of facts recorded by the learned trial Court was rightly upheld by the Lower Appellate Court, as in the present case, the agreement to sell was only executed as a security to the some loan transaction between appellant and defendant No. 1.

Accordingly, the concurrent findings of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

03.04.2018

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No