

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

RSA No.599 of 2016 (O&M)
Date of Decision: July 18, 2018

Satwant Singh

...Appellant

Versus

Sinder Pal Kaur

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Manish Kumar Singla, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

The defendant has filed this regular second appeal assailing the judgments of the courts below, whereby, the suit for possession by way of specific performance filed by the plaintiff – respondent has been decreed.

The case of the plaintiff was that the defendant is owner as co-sharer of the land measuring 5 biswas 19.5/6 biswasies pukhta (17 biswas 19 biswasies Kham) out of the total land as fully detailed in the head note of the plaint. On 15.1.2007, the defendant entered into an agreement to sell the above land with the plaintiff for a sale consideration of Rs.2,65,000/-. A sum of Rs.2 lacs in cash was given as earnest money to the defendant. The remaining amount was to be paid at the time of execution of the sale deed, which was to be executed on or before 30.04.2007. Two days before the date fixed for registration of the sale deed, the plaintiff met the defendant and requested him to remain present on 30.04.2007 in Tehsil office Sangrur to get the sale deed executed. However, the defendant did not turn up on that date. The plaintiff remained present in the office of the Sub-Registrar

along with the balance amount of sale consideration and money required for incidental expenses and waited for the defendant. As the defendant did not turn up, she submitted an application along with affidavit before Sub-Registrar, Sangrur for getting her presence marked. At about 4.00 pm, a person from the village of the defendant met the plaintiff and on behalf of the defendant requested that the time for execution of the sale-deed be extended. The plaintiff got typed an endorsement for extension of time up to 15.5.2007. However, the defendant refused to sign the same. At about 5.00 pm, the plaintiff got her presence marked in the office of the Sub-Registrar.

In the written statement, the defendant denied the execution of the agreement to sell dated 15.1.2007 and receipt of the earnest money. It was submitted that the defendant had purchased the land from the husband of the plaintiff. The plaintiff was a relative of the defendant and there was no need for the defendant to alienate the suit land. The entire land was joint. The plaintiff had strained relations with her husband Gurdev Singh and had been residing separately from him before his death in the year 2006. It was alleged that the suit had been filed at the instance of Kulwant Singh and Bhagwant Singh, who were close relatives of the plaintiff and defendant and wanted to grab the property of the defendant.

In order to prove her case, the plaintiff examined Vijay Goel, Stamp Vendor, Sangrur as PW1, Navdeep Gupta, Handwriting and Fingerprint Expert as PW2, Parveen Kumar Garg, Advocate (Notary Public) Tehsil Complex, Sangrur as PW3 and Kulwant Singh as PW4. The plaintiff herself appeared as PW5. On the other side, defendant Satwant Singh appeared as DW1 and Daljit Kaur appeared as DW2.

The Ld. Trial Court on the basis of the evidence concluded that the

agreement to sell has been duly proved by the plaintiff. It noticed that a perusal of the agreement Ex.P31 revealed that the backside of all the pages bore the signatures of defendant Satwant Singh. PW1 Vijay Goel, Stamp Vendor had deposed that stamp papers were purchased by Satwant Singh and every page had been signed by him. PW2 Navdeep Gupta, Handwriting and Fingerprint Expert proved the signatures of the defendant on the agreement. PW3 Parveen Kumar Garg, Notary Public, Tehsil Complex Sangrur deposed that at the instance of Satwant Singh, he had scribed the agreement pertaining to the land measuring 17 biswas 19 biswasies *kachey* located at Nanakpura in favour of the plaintiff in the presence of the witnesses. After getting it typed, he had read over and explained it to the parties, who after admitting it to be correct, had appended their signatures and the witnesses had also appended their signatures. He himself had also signed the document as token of its attestation and also made an entry at Sr.No.6901 dated 15.01.2007. He also deposed that the plaintiff paid Rs.2,00,000/- to the defendant and the defendant in his own handwriting on the agreement to sell, had acknowledged the receipt of the Rs.2,00,000/-. PW4 Kulwant Singh, brother of the defendant deposed that he had signed the agreement as a marginal witness. The plaintiff in her deposition stated that she is employed at Akal Academy and was receiving a salary of Rs.5,000/- per month. She was residing with her parents and was only paying the fee of her children, amounting to Rs.1000/-. She had drawn Rs.1,00,000/- from her own savings and taken loan of Rs.2,00,000/- from her maternal uncle. Accordingly, the Ld.Trial Court concluded that the plaintiff had been able to prove both the execution of the agreement and the fact that she had sufficient money, both, for the earnest money and the

