

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

105

RSA-6168-2016 (O&M)

Date of Decision : 16.01.2018

Chaman Singh and others

..... Appellants

Versus

Major Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Kanwar Sanjiv Kumar, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit for specific performance filed by the respondent.

The admitted facts are that an agreement to sell was executed in respect of 82 Bigha 13 Biswa of land @ Rs.1,02,000/- per bigha. It is also admitted that out of that land sale deeds qua 61 Bigha 10 Biswa were duly executed by the appellants in favour of the respondent. The dispute thus remains only with respect to the remaining 21 Bigha 3 Biswa of land. The case of the respondent was that during this interregnum there were various extensions and a fresh agreement to sell was also executed between the parties and as per the concluded contract the respondent had appeared before the Sub-Registrar on the appointed date but the appellants having absented themselves had filed the instant suit. The case of the appellants

essentially is that even though the respondent had obtained sale deeds for

61 Bigha 10 Biswa of land yet at that time they had not given the full consideration to the appellants and, since there was a very good relationship between the parties the appellants had accepted their verbal assurance that they would clear the outstanding. As per the appellants thereafter the respondent got executed various documents from the appellants which were never gone through by the appellants, also because of the good faith between the parties. Both the courts below having decreed the suit for specific performance the appellants are before this Court.

In my opinion, the case sought to be set up by the appellants has to fail. In the first place, it is extremely difficult to stomach that any person would execute a document of transfer of title by sale without receiving the full consideration merely on 'good faith'. It become even more highly incredible that such a person would then execute further documents without being aware of their contents. In the circumstances, the courts below cannot be faulted for coming to the conclusion that the preponderance of probability goes in favour of the respondent.

Appeal is dismissed. No costs.

Since the main application has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

January 16, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No