

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

**RSA No.6181 of 2016 (O&M)
Date of Decision.06.12.2018**

Jaspal

....Appellant

Vs

Balkar Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. V.K. Sandhir, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in seeking specific performance of agreement to sell dated 10.11.2005 whereby defendant alleged to have agreed to sell the land @₹55,000/- per marla against receipt of ₹9 lakhs as earnest money. 14.06.2006 was fixed as date for registration of the sale deed, which was extended on many occasions and last extension was upto 18.06.2006. It was alleged that plaintiff marked presence before the Registrar on 19.06.2006 but the defendant did not come forward. Alleged agreement to sell was witnessed by two witnesses and scribed by the plaintiff, being himself a scribe.

Mr. Sandhir, learned counsel appearing on behalf of the appellant submitted that there were two attesting witnesses, Balwinderpal and Pritam Singh as PW1 and PW2. Though PW2 did not come forward for cross-examination, PW1 Balwinderpal proved the agreement to sell. Despite that defendant alleged the agreement to sell to be forged and fabricated. In order to prove the same, examined Head Constable Rajinder Kumar as DW4 and various other witnesses

in respect of registration of FIR No.46 dated 20.06.2012 and 73 dated 13.07.2006 whereby the plaintiff was tried for doing forgery.

I am afraid aforementioned arguments are not sustainable, for, Balwinderpal did not prove that earnest money was paid in his presence, rightly so, his evidence has been discarded in order to grant discretionary relief, much less, alternative relief of recovery. Long and short finding is that, plaintiff has miserably failed to discharge onus in order to succeed in laying claim under Section 16(c) of the Specific Relief Act, 1963, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 06, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No