

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

**RSA No.6346 of 2016 (O&M)
Date of Decision.07.12.2018**

Gurcharan Singh

....Appellant

Vs

Harjinder Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Veneet Sharma, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-defendant has not been successful in defending the suit for specific performance of agreement to sell dated 01.12.2005 filed by the plaintiff before the trial Court as well as in appeal laid before the lower Appellate Court.

The plaintiff sought specific performance of agreement to sell dated 01.12.2005 in respect of land measuring 24 kanals agreed to be sold for a total sale consideration of ₹10,50,000/- against the payment of earnest money of ₹6 lakhs. The stipulated date for execution of agreement to sell was fixed as 15.05.2006 but on 07.05.2006, extended the date of execution as 28.05.2008. Agreement was witnessed by Hira Singh and Harjinder Singh.

The appellant-defendant opposed the suit and taken the plea that he had been selling his agriculture produce to Mr. Rana, brother of plaintiff, who was the commission agent. He had obtained thumb impressions of the defendant on blank papers, which have been converted into agreement to sell. There was no intention to sell the land. The price of the land at the relevant point of time was much

higher than the one agreed to.

Mr. Veneet Sharma, learned counsel appearing on behalf of the appellant submitted that it is a case of fraud played upon the defendant in collusion with the brother of the plaintiff. No sane person would after parting the earnest money of ₹6 lakhs give an extension for two years for execution and registration of the sale deed. The plaintiff feigned ignorance about the withdrawal of amount of ₹3 lakhs, which is stated to have been withdrawn from the bank. Only one witness Hira Singh, who was none else but cousin brother of the plaintiff has been examined. These factors would lead to irresistible conclusion that there was an apparent collusion in converting the blank papers into agreement to sell.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Sharma. The extension would reveal that subject matter of land was already under loan of ₹1 lakh, which the defendant undertook to repay and in such circumstances, date was extended to 28.05.2008. The witnesses of the agreement are some time known or relatives of the parties so that there may remain chances of reconciliation in case of any dispute. If at all there was a fraud, defendant ought to have taken some measures for vindication of the alleged grievance. Readiness and willingness was proved as the suit was filed on 11.06.2008 immediately after the expiry of the stipulated date. If there was a truthfulness in the assertions made by defendant, he ought to have examined Rana, even if the plaintiff had admitted his business as commission agent. All these factors weighed in the

mind of the Courts below in decreeing the suit.

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

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 07, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No