

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.5022 of 2015 (O&M)

Date of decision: 08.02.2018

Inderjit Kaur

..... Appellant

Versus

Puran Singh through LRs Raj Kaur and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vijay Sharma, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below granting him alternative relief of refund of the earnest money along with the interest. Both the Courts on appreciation of evidence have found that the agreement to sell is proved. However, the plaintiff is not entitled to decree for specific performance as the terms of the agreement which provides that the sale deed would be executed after a period of 5 years does not entitle the plaintiff to specific performance of the agreement to sell as the period fixed in the agreement for execution of the sale deed is abnormal.

Learned counsel for the appellant has vehemently argued that the discretion exercised by the Court is erroneous. However, looking at the facts of the case, this Court does not find any substance in the same. The agreement to sell was executed on 10.04.1985. The agreement to sell was with respect to the land measuring 54 kanals and 9 marlas. Only

Rs.50,000/- was paid as earnest money. Thereafter, subsequently some additional amount was also paid. However, the date of registration of the sale deed was fixed as 10.04.1990. The Courts have noticed that such period of five years for execution of the sale deed is not normal. The Courts have further noticed that the plaintiff and defendant No.1 are close relatives.

In view thereof, there is no scope for interference with the discretion exercised by the Court.

All the miscellaneous applications, if any shall stands disposed of accordingly.

Appeal is dismissed.

08.02.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No