

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

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**CM-5627-C-2014 in/and
RSA-2338-2014 (O&M)
Date of Decision : 11.09.2018**

Surajbhan Appellant

Versus

Ramrikh Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Manoj Kumar Sood, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM-5627-C-2014

For the reasons recorded, the application is allowed. Delay of 3 days in filing the appeal is condoned.

RSA-2338-2014 (O&M)

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

The case of the respondent was that the appellant had entered into an agreement to sell dated 29.12.2006 to sell 8 kanals of land for a total consideration of Rs.5 lakhs and had received an amount of Rs.3 lakhs as earnest money. The target date was fixed as 20.08.2007. On that date the respondent appeared before the Sub-Registrar but since the appellant did not appear he thereafter sent a legal notice to the appellant but having received no reply, he filed the instant suit.

The case of the appellant on the other hand was that he never entered into any agreement to sell.

In evidence the respondent produced the advocate who had drafted the registered agreement to sell. He examined one of the witnesses. The son of the second witness also appeared and stated that his father was confined to bed due to paralytic attack and he identified the signatures of his father on the agreement to sell. Apart from his own bald testimony the appellant led no evidence. It was in these circumstances that the courts below decreed the suit. Hence, the present appeal.

Counsel for the appellant has argued that the sole attesting witness who appeared gave a wrong date of the agreement to sell in his cross examination.

I am afraid that one mistake would not tilt the preponderance of probability in favour of the appellant. In the totality of circumstances, I am not persuaded that the findings recorded by the courts below are either based on no evidence or based on such a perverse misreading of evidence so as to justify interference of this Court in second appeal.

Appeal is dismissed. No costs.

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

September 11, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No