

**X-Objection-3-C-2018 (O&M) in/and
RSA No.5215 of 2015 (O&M)**

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

**X-Objection-3-C-2018 (O&M) in/and
RSA No.5215 of 2015 (O&M)
Date of decision:10.12.2018**

Mangiya (deceased) through LRs and another ... Appellants

Vs.

Sukhi Ram and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.R.P.Daaria, Advocate for
Mr. G.S.Gandhi, Advocate
for the appellants.

Mr. J.P.Sharma, Advocate
for the cross-objector/respondents.

AMIT RAWAL J. (Oral)

X-Objection-3-C-2018 (O&M)

Mr.J.P.Sharma, learned counsel for the cross-
objectors/respondents seeks withdrawal of the cross-objections.

Ordered accordingly.

RSA No.5215 of 2015 (O&M)

The present Regular Second Appeal is directed against the judgment and decree of the Lower Appellate Court, whereby, in a suit for specific performance of the agreement to sell dated 13.05.2005, the respondent-plaintiffs have been granted alternative relief.

The respondent-plaintiffs instituted the suit claiming specific performance of the agreement to sell in respect of land measuring 4 kanals

11 marlas agreed to be sold for a total sale consideration of Rs.2,64,000/- and the entire sale consideration was paid. The stipulated date for execution and registration of the sale deed was 15.06.2006. However, the defendants did not appear before the office of Sub-Registrar. The suit was filed on 04.08.2006.

The defendants opposed the suit and denied the intention to sell the land but stated to be a loan transaction as there was some business transaction between the parties to the lis.

The plaintiffs in support of the aforementioned averments, examined two attesting witnesses PW3-Data Ram, PW4-Kanshiram and registration clerk as PW6 to prove their presence before the office of Sub-Registrar. On the other hand, defendants examined three witnesses. The trial Court held that the party had not intended to sell the land and dismissed the suit.

Mr.R.P.Daaria, Advocate for Mr. G.S.Gandhi, learned counsel appearing on behalf of the appellant-defendants submitted that respondents' witness PW4-Kanshiram to a specific question in cross-examination acknowledged the written note, Ex.D1 where the intention of the party not to sell the land was reflected. Even the amount so received, had already been repaid as the plaintiffs did not prove on record any receipt which was requested to be issued on number of occasions.

I have heard the learned counsel for the parties, appraised the judgments and decrees of the Courts below and of the view that there is no

force and merit in the submissions of Mr. Daaria, for, the defendants have not been able to belie the signatures on the agreement to sell. If the party had not intended to sell as per the testimony of PW4, much less the return of the amount referred to therein, the finding of facts and law arrived at by the Lower Appellate Court for ordering refund of money is the most appropriate relief.

No ground is made out for interference in the impugned judgment and decree, much less no substantial question of law arises for adjudication of the present appeal.

The appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 10, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No