

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

**RSA No.2947 of 2014 (O&M)  
Date of Decision:02.11.2018**

Rachna Kumari (deceased) through LRs

...Appellant(s)

**Versus**

Romesh Lal @ Romesh Kumar

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present:** Mr.A.S.Manaise, Advocate for the appellant.  
Mr.R.S.Chauhan, Advocate for the respondent.

**ANIL KSHETARPAL, J.**

The defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by both the courts below, decreeing the suit for specific performance of the agreement to sell dated 30.6.1995.

In the considered opinion of this Court, question of law which needs determination is whether the judgments passed by the courts below which are result of misreading and non-reading of the basic document, i.e. agreement to sell. There was an agreement to sell between the parties dated 30.6.1995, agreeing to sell the land measuring 32 kanals for a total sale consideration of Rs.36,000/-, out of which Rs.5,000/- was paid as earnest money. As per the agreement to sell, 20.9.1995 was fixed the target date for execution and registration of the sale-deed.

Two sale-deeds pursuant to agreement to sell dated 30.6.1995 were executed by the defendant-appellant on 15.9.1995 with respect to 16 kanals and 8 kanals land respectively. Second sale-deed with regard to 8 kanals of land was executed in favour of cousin of the plaintiff namely

Parshotam Lal, which is not disputed fact.

The present suit has been instituted on 27.1.2005 for specific performance of remaining part of the agreement to sell. Both the courts have decreed the suit while observing that no date for specific performance of the agreement to sell has been mentioned in Ex.P1, the agreement to sell dated 30.6.1995.

Learned counsel for the respondent also could not dispute that the agreement to sell dated 30.6.1995 specify the target date for execution and registration of sale deed to be 20.9.1995 and this date was never extended.

Thus, both the courts have clearly erred in non-reading and misreading the most material document i.e. agreement to sell. No doubt, the plaintiff pleaded that there was a subsequent oral agreement, through which the plaintiff had been put in possession of 8 kanals of remaining land. However, both the courts have not returned any finding on the basis of a fresh oral agreement.

As per Article 54 of Schedule to the Limitation Act, 1963, the time from which period begins to run is divided into two parts for a suit for specific performance of contract. The first part provides the date fixed for performance and second part provides that if no such date is fixed when the plaintiff has noticed that the performance is refused, the period of limitation would begin to run.

In the present case, undisputedly, the date for performance has been fixed in the agreement to sell. In such circumstances, the suit filed by the plaintiff after a period of 9 years was clearly barred by time.

In view of the above, the question framed is answered in favour of the appellant. The judgments and decrees passed by the courts below are set aside. The suit filed by the plaintiff shall stand dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

**02.11.2018**  
**mks**

**(ANIL KSHETARPAL)**  
**JUDGE**

**Whether speaking/reasoned: Yes/No**

**Whether Reportable: Yes/No**