

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.1762 of 2017 (O&M)

Date of Decision: November 13, 2018

Jagmohan Singh

...Appellant

Versus

Rajinder Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. H.S.Dhindsa, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM Nos.4253-C & 4254-C of 2017

For the reasons mentioned in the applications, which are supported by affidavits, delay of 12 days in filing and 23 days in re-filing the appeal is condoned.

Applications stand disposed of.

RSA No.1762 of 2017

Appellant-plaintiff has not been successful in seeking discretionary relief in a suit for specific performance of the agreement to sell dated 16.07.2004 which has been confined to refund of recovery of ₹1,50,000/- along with interest @ 9% per annum from the date of filing of the suit till decree and @ 6% per annum from the date of decree till realization.

Mr. H.S.Dhindsa, learned counsel representing the appellant-plaintiff submitted that the plaintiff was holder of special general power of

attorney dated 16.06.1992 in respect of the suit property and was also in possession. Since he was in need of money, he requested the defendant to advance loan of ₹ 1,00,000/-, who agreed to lend the same and in this regard, an agreement was entered into as a security. The entire amount of consideration was paid and even the possession was handed over, therefore, the suit in 2010 was filed. Even before the trial Court, defendant was proceeded ex-parte. Despite having proved the agreement, the courts below did not grant the discretionary relief despite the fact that readiness and willingness has been proved.

I am afraid, the aforementioned argument is not able to cut the ice as the special general power of attorney has not seen the light of the day. Once the plaintiff has obtained loan from the defendant, it cannot be believed that the party had intended to sell the land in dispute. It is in these circumstances, the trial Court confined the decree for recovery of the amount. The findings, in my view, are based on appreciation of evidence.

For the reasons mentioned above, no ground for interference is made out, much less involvement of substantial question of law. Resultantly, the appeal is dismissed.

November 13, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No