

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

RSA No. 1888 of 2017 (O&M)
Date of decision : August 01, 2018

Ravail Singh

..... Appellant

v.

Natha Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. RK Arya, Advocate
for the appellant.

Ajay Tewari, J (Oral)

This appeal has been filed against the judgment of the lower appellate Court partly allowing the appeal of the appellant.

The appellant had filed a suit for specific performance. Both the Courts below accepted that the agreement to sell was executed and that the appellant was ready and willing on the appointed date. Both the Courts below, however, declined the plea of specific performance. The trial Court granted the alternative relief of refund of earnest money with interest from the date of decree. In appeal, the lower appellate Court granted further limited relief of interest during the pendency of the case. The present appeal has been filed claiming that specific performance should have been ordered. The facts which convinced the Courts below to decline the relief of specific performance were that the appellant had paid only ₹ 20,000/- as earnest money against a total sale consideration of about ₹ 3 lakhs. Notice

was issued after two years and eight months and the suit was filed on the last date of limitation.

Counsel for the appellant has argued that these facts by themselves would not dis-entitle the appellant from claiming specific performance because he was trying to vindicate his rights out of the Court by settlement. He has, however, accepted that apart from the statement of the appellant that there is no other evidence which may have shown that he was repeatedly approaching the respondents.

In the circumstances, I am not persuaded to hold that the relief of specific performance should have been granted or the exercise of discretionary power by the Courts below in declining the relief of specific performance is so perverse as to be liable for interference under Section 100 of the CPC. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

August 01, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No