

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 1419 of 2018

Date of decision: 3.8.2018

Jaipal Sharma

.....petitioner

Versus

Suresh Sharma

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Balkar Singh, Advocate,
for the appellant.

Mr.D.K.Tuteja, Advocate
for the respondent

RAJ MOHAN SINGH, J (oral)

Defendant is in regular second appeal against the concurrent findings of the Courts below.

Plaintiff and defendant belong to the same family. Defendant purchased the suit property from the plaintiff measuring 72 square yards. The consideration was shown to be ₹ 2,50,000/- and the sale deed was executed on 18.6.2013. Though the recital of the sale deed was that the sale consideration has already been recovered by the plaintiff at home, but in fact, no consideration was paid to the plaintiff. When the plaintiff refused to sign the sale deed, second

agreement came to be recorded on 18.6.2013 i.e. on the same day vide which defendant agreed to pay an amount of ₹ 2,70,000/- after 11 months. Addition of ₹ 20,000/- was towards the delayed payment. Thereafter, the plaintiff signed the sale deed. The execution of the agreement dated 18.6.2013, vide which an amount of ₹ 2,70,000/- was agreed to be paid by 17.5.2014, has been proved on record with reference to scribe and attesting witnesses.

Jaipal Sharma was examined as DW-1, who has stated that as per the agreement and affidavit, defendant was having liability to repay an amount of ₹ 2,70,000/-. The witness took the plea that the amount was paid on 31.1.2014 in the presence of witnesses and no amount was outstanding against the defendant. No such plea as projected by the witness was taken in the written statement. The statement of DW-2 Rampat was also to the same effect for which there was no stand taken in the written statement. On the other hand, agreement Ex.P-2, executed on 18.6.2013 and affidavit of the even date Ex.P-3 have been admitted by the defendant, acknowledging his liability to the tune of ₹ 2,70,000/-. The sale deed Ex.P-5 was executed in confirmation to the aforesaid understanding between the parties keeping in view the inter se relationship between them.

The stand taken by the defendant was found to be controversial vis-a-vis the oral evidence led by him and the

stand taken in the written statement. The plaintiff has successfully proved the execution of agreement Ex.P-2. The expert witness i.e. PW-7, V.B.Kashyap, handwriting and finger print expert, was examined by the plaintiff. He has opined that the plaintiff has not executed any such agreement dated 31.1.2014, vide which the factum of payment was asserted by the defendant. The signature appearing on the agreement dated 31.1.2014, Ex.D-1, was found to be forged.

Findings of fact recorded by the Courts below are based on correct appreciation of evidence. The appreciation of evidence done by the Courts below cannot be re-appreciated in regular second appeal.

No law point worth cognizance is involved in this appeal. The same is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

August 03, 2018
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Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No