

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

**RSA No. 1659 of 2018 (O&M)**

**Date of Decision: December 17, 2018.**

Kirpal Singh

.....APPELLANT

**VERSUS**

Naranjan Singh

.....RESPONDENT

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Atul Jain, Advocate  
for the appellant.

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**SURINDER GUPTA, J.(Oral)**

Heard.

The plaintiff/appellant filed suit for possession by way of specific performance of agreement to sell dated 03.08.2001 whereby the defendant/respondent agreed to sell his share of 8 Kanals of land situated at village Malakpur Kamboan, Tehsil and District Patiala for a sum of ₹2 lakh and received ₹50,000/- as earnest money.

Learned trial Court allowed the alternative relief of recovery of double the amount of earnest money with the observation that plaintiff has not been able to prove the basic ingredient to get the relief that he was ready and willing to perform his part of the agreement. This fact was also taken note that in the agreement to sell dated 03.08.2001, date of execution of the sale deed was fixed as 02.08.2003 and the suit was filed on 02.08.2006 i.e. on last day of limitation.

Not satisfied, the appellant filed appeal, which was dismissed by the Appellate Court with the observations as follows:-

*“Now adverting to the facts of the present case, the plaintiff has filed the instant suit on 01.08.2006 i.e. a day before lapse of three years from the date fixed for execution and registration of sale deed. This also assumes significance when the date for execution and registration of sale deed as per agreement was 02.08.2003. He had not taken any steps to show his readiness and willingness to perform his part of contract during the intervening period, except the issuance of legal notice on 19.6.2006 that is even too after about 2 years and 10 months from the date fixed for the execution and registration of sale deed. There was a total inaction of the plaintiff seeking relief of specific performance, for 3 years in violation of the agreement stipulating time limit. This all is indicative of the fact that the plaintiff was not in fact interested in getting his right of specific relief under the agreement, enforced.”*

Learned counsel for the appellant has argued that agreement is admitted and duly proved. The plaintiff/appellant had also issued a notice dated 19.06.2006 (Ex.P-3), before filing of the suit, calling upon the defendant to execute the sale deed. In these circumstances, there was no reason for the Courts below to deny the relief of specific performance of the agreement.

This fact is not disputed that agreement was for purchase of

49/72 khasra no. 8//9/2 min (4-0) was mentioned in the agreement. In this khasra number, the defendant had only 1/8<sup>th</sup> share and khasra of the remaining 4 kanals was not even mentioned in the agreement. The facts and circumstances of the case, reflect that the plaintiff/appellant firstly took two years from the date of execution of agreement for getting sale deed registered and then kept on waiting for another three years before filing the suit. Even the notice was issued after the lapse of about two years and ten months from the date fixed for execution and registration of the sale deed.

Keeping in view the facts of the case and inaction part of the appellant for such a long period, learned Courts below have committed no error while declining the relief of specific performance of agreement and I find no reason to interfere in exercise of discretionary power by the Courts below. No substantial question of law requiring determination arises and this appeal has no merits.

Dismissed.

**December 17, 2018.**

*Jyoti-II*

**( SURINDER GUPTA )  
JUDGE**

***Whether speaking/reasoned:***

***Yes/No***

***Whether Reportable:***

***Yes/No***