

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

RSA 5602 of 2014 (O&M)
Date of decision : 30.10.2018

Kuldip Kumar

....Appellant

versus

Karnail Kaur and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. S S Swaich, Advocate
for the appellant

Mr. Swarn Tiwana, Advocate
for the respondents

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against judgment and decree dated 11.08.2014 passed by the Additional District Judge, Fatehgarh Sahib whereby appeal preferred by Karnail Kaur and others (legal representatives of late Shri Kuldip Singh) against judgment and decree dated 25.04.2012 passed by the Additional Civil Judge (Senior Division) Fatehgarh Sahib allowing specific performance of agreement to sell dated 26.07.2004 was accepted; judgment and decree impugned were set aside and suit filed by the appellant/plaintiff was ordered to be dismissed.

Counsel for the appellant would urge that in the written statement filed by the respondents/defendants, they have raised a plea that Kuldip Singh (since deceased) did not execute an agreement of sale but the document was executed as a security for repayment of loan taken by said

Kuldip Singh. It is further argued that the Appellate Court, without appreciating averments of the written statement has mis-directed itself to conclude that the document in question was not executed by Shri Kuldip Singh.

Counsel for the respondents/defendants has supported findings recorded by the Appellate Court. However, counsel for the parties have arrived at a consensus that the judgment and decree passed by the Court in appeal may be set aside and matter be remitted to the Appellate Court for decision of appeal afresh by providing an opportunity of hearing to the contesting parties, in accordance with law.

Without appreciating contentions raised by counsel for the parties or examining merits of appeal, the appeal stands disposed of, judgment and decree passed by the Appellate Court are set aside and the matter is remitted to the Appellate Court for decision afresh, in accordance with law.

Parties through their counsel are directed to appear before the Appellate Court (successor Court of Ms Manjot Kaur, Additional District Judge, Fatehgarh Sahib) on 19.11.2018. The Appellate Court shall decide the appeal within a period of four months of the parties putting in appearance.

(Rekha Mittal)
Judge

30.10.2018
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