

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

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**RSA No.2651 of 2018 (O&M)
Date of Decision : 22.05.2018**

Phoolpati

..... Appellant

Versus

Satish Kumar

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Ms. Loveleen Dhaliwal, Advocate
for the appellant.

Mr. S.K.Hooda, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

Learned counsel for the respondent states that in terms of the order passed on the last date he had specifically sought instructions from his client who has stated that there is no possibility of any settlement.

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit for specific performance filed by the respondent. As per the respondent, the appellant had entered into an agreement to sell the land in dispute for a sum of Rs.4.00 lacs on 16.02.2007. A sum of Rs.3.50 lacs was paid at the time of agreement to sell and the remaining Rs.50,000/- was to be paid at the execution of the sale deed which was fixed on or before 30.04.2007. It was further pleaded that since the respondent apprehended the sale of the property by the appellant

he had previously filed an injunction suit No.208/1 of 2007 dated 03.04.2007 praying for an injunction restraining the appellant from alienating the property. Temporary injunction was granted. It was further pleaded that during the pendency of that suit the panchayat was convened and the appellant again agreed to execute the sale deed in terms of the agreement dated 16.02.2007 and, at one stage also moved an application for grant of NOC from the competent authority and in that application also she mentioned the agreement to sell dated 16.02.2007. However, despite this she was not coming forth to execute the sale deed though the respondent had appeared before the Sub Registrar on the appointed date with the remaining consideration of money and that is why this suit was filed.

The case of the appellant on the other hand was that the agreement to sell had been got executed from her by a fraud. She further denied that she had ever participated in the panchayat or had ever applied for NOC. Both the courts below held that the respondent had been able to prove the valid execution of the agreement to sell, his readiness and willingness and the application for NOC which was filed by the appellant and disbelieve the story of the appellant regarding the fraud which he has alleged. As mentioned above both the Court having decreed the suit the appellant is before this Court.

Learned counsel for the appellant has vehemently argued that the Courts below erred in disbelieving the testimony of the appellant and believing the testimony of the evidence of the respondent.

Learned counsel for the respondent has however argued that whereas the only witnesses who appeared on behalf of the appellant were

her immediate family members, the respondent had examined all the witnesses including official witnesses who had proved the due execution of the agreement to sell, the presence of the respondent before the Sub Registrar and the application for NOC which had been moved by the appellant.

Learned counsel for the appellant has not been able to persuade me that the findings of fact recorded by the Courts below are either based on no evidence or based on such a perverted misreading of evidence so as to justify the interference of this Court under Section 100 of the Code of Civil Procedure.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

22.05.2018
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No