

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

RSA No.3333 of 2017 (O&M)

Date of decision:30.10.2018

Gurmail Kaur and another ... Appellants

Vs.

Rajinder Kaur ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.K.S.Billing, Advocate for
Mr. S.S.Rangi, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-plaintiffs are aggrieved of the judgment and decree of the Lower Appellate Court, whereby, the suit for permanent injunction restraining the defendants and their agents from dispossession of the suit property, decreed by the trial Court, has been dismissed.

The aforementioned suit contested, by stating, that plaintiffs had agreed to sell the land to Nirmal Singh, husband of defendant no.1 and one Gurdev Singh for a total sale consideration of Rs.6.00 lakhs and the entire sale consideration was paid at the time of execution of the agreement to sell dated 08.03.2008. In lieu thereof, physical possession was handed over. The agreement to sell was brought on record as Ex.D1 and voter card of late Nirmal Singh and Rajinder Kaur as Ex.D2 and Ex.D3 respectively and death certificate as Ex.D4.

On the preponderance of the evidence, the trial Court decreed the suit but the Lower Appellate Court reversed the findings by dismissing the suit.

Learned counsel appearing on behalf of the appellants submitted that respondent-defendant, herein, instituted the suit for specific performance which was decreed by the trial Court, though appeal is pending before the Lower Appellate Court. In fact, agreement to sell, Ex.D1 had not been proved on record nor any possession thereof, therefore, there is gross illegality and perversity in the impugned judgment and decree. In fact, the possession is of the plaintiff right from the day one which had been proved through jamabandi for the year 2007-08.

I am afraid the aforementioned argument is not sustainable, for, now the suit for specific performance has been decreed, though the appeal is pending, thus, the prayer for keeping the case pending till the decision of the appeal filed by the appellants would be meaningless and is hereby rejected. If at all, the appellants succeed in the appeal or in the Higher Court, they can always claim the relief in accordance with law but not at this stage.

No ground for interference is made out in the impugned judgment and decree, much less no substantial question of law arises for adjudication of the present appeal.

The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

October 30, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No