

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

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RSA-6231-2014 (O & M)
Date of Decision:01.08.2018

Balkar Singh

...Appellant

Versus

Chanan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manish Bansal, Advocate
for the appellant.

Mr. Bikramjit Aroura, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the Courts below dismissing a suit for specific performance of the agreement to sell.

Both the Courts have found that the agreement to sell propounded by the plaintiff is suspicious. At the time of agreement to sell, Balkar Singh was the original owner of the property. It is claimed that Kashmir Singh his son and general power of attorney holder had entered into an agreement to sell with Balkar Singh, the plaintiff on 14.11.2005. Two documents are alleged to have been executed, one was agreement to sell dated 14.11.2005 and second was pronote and receipt executed on same day by Kashmir Singh in favour of Avtar Singh, brother of Balkar Singh.

Still further, Avtar Singh filed a suit for recovery of the amount paid under the pronote and receipt. Marginal witness Harbans Singh, who is uncle of the plaintiff appeared and stated that he has not attested any other document on that day.

Still further, Courts have noticed that the stand of the plaintiff is contrary. In the plaint, plaintiff has pleaded that on payment of the balance sale consideration of Rs.6,27,500/- decree for specific performance of agreement to sell be granted. However, in evidence it has been pleaded that father of the plaintiff had deposited a sum of Rs.4,83,000/- was towards redemption of the mortgage. However, no evidence has been led to prove that Rs.4,83,000/- was deposited by the father of the plaintiff. As per agreement to sell, sale deed was to be executed and registered on 12.06.2006. Suit for specific performance was filed on 16.03.2009. No reason has been given as to why the plaintiff waited for a period of two years and nine months for filing the suit.

Learned counsel for the appellant has pointed out that two applications for additional evidence were filed, out of them only one has been decided whereas second was not decided by the First Appellate Court.

This Court has considered the applications for additional evidence, which had remained undecided by the First Appellate Court. Through the application for additional evidence, plaintiff wishes to produce on record five sale deeds executed by the wife of the defendant-Kartar Singh; Sale deed executed by Balkar Singh and two sale deeds executed by Kulwant Singh, the father of the Balkar Singh.

Learned counsel for the appellant submitted that these sale deeds are being produced to prove that there was dealing between the

parties and the plaintiff was having sufficient funds. None of the sale deed is near to the target date for execution and registration of the sale deed i.e. 12.06.2004.

Courts below have appreciated the evidence available on the file and such appreciation of evidence is neither shown to be perverse nor result of misreading of evidence.

Hence, this Court does not find any good ground to interfere.

Regular second appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

01.08.2018
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(ANIL KSHETARPAL)
JUDGE

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