

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

1. RSA No.3396 of 2017 (O&M)
Date of decision : 24.09.2018
Kanwaljit Singh Bhatia and another ...Appellants

Versus

Hardip Bedi ...Respondent

2. RSA No.5303 of 2017 (O&M)
Date of decision : 24.09.2018
Kanwaljit Singh Bhatia and another ...Appellants

Versus

Hardip Bedi and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ramnish Puri, Advocate for the appellants.

Mr. Akhilesh Vyas, Advocate for the Caveator/respondents.

ANIL KSHETARPAL, J. (ORAL)

This order of mine shall dispose of two appeals bearing RSA Nos.3396 and 5303 of 2017.

The plaintiffs-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below while dismissing their suit for possession by way of specific performance of the agreement to sell dated 29.05.2008.

It may be mentioned here that the learned trial Court had ordered the refund of the earnest money but the First Appellate Court has refused to order the refund of the earnest money.

The execution of the agreement to sell dated 29.05.2008 is not in dispute. Dispute is with regard to the readiness and willingness of the plaintiffs.

Both the Courts have noticed that the plaintiffs have taken a contradictory stand. On the one hand, the plaintiffs have filed a suit for specific performance of the agreement to sell pleading their readiness and willingness, whereas, on the other hand, plaintiffs have pleaded that material facts have been suppressed by the plaintiffs.

Learned First Appellate Court after re-appreciating the evidence has come to the conclusion that the plaintiffs were in knowledge of the facts. Still further, the plaintiffs have not produced any documents on the file to prove that any litigation with regard to the property in dispute was/is pending apart from this suit. The Court further noticed that after the target date i.e. 29.08.2008 when the defendant-respondent specifically came to India from abroad to execute and register the sale deed, still, the plaintiffs did not come to execute the sale deed. The Court further noticed that even after the target date, the plaintiffs did not file the suit for specific performance for a period of 8 to 9 months.

Keeping in view the findings of fact, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Accordingly, both the Regular Second Appeals are dismissed.

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

24.09.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No