

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

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RSA No.3125 of 2018 (O&M)

Date of Decision : 24.07.2018

Deepak Kumar

..... Appellant

Versus

Balwant Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Ghulam Nabi Malik, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower appellate Court reversing that of the trial Court and thereby denying the relief of specific performance to the appellant (even while ordering refund of earnest money with interest).

The case of the appellant was that he had entered into an agreement to purchase the land of Jassa Singh measuring 20 kanals 9 marlas by way of an agreement to sell dated 06.05.2008. In the agreement to sell no time was fixed for execution of the sale deed. Later on the appellant came to know that respondent No.2 had sold his entire land measuring 33 kanals odd in favour of respondent No.1 and it was thereafter that the instant suit for specific performance was filed. The case of respondent No.2 on the other hand was that he had borrowed money from the appellant and at that time the appellant had got his signatures on certain papers. The case

of respondent No.1 on the other hand was that he had purchased the land after making all the inquiries and had no knowledge about any prior agreement to sell. Both the Courts found that the agreement to sell in favour of the appellant was duly proved. The trial Court held that respondent No.1 was not a bona-fide purchaser and decreed the suit. The appellate Court reversed the finding about bona-fides of respondent No.1 and consequently ordered recovery.

Learned counsel for the appellant has argued that the appellate Court wrongly held respondent No.1 to be bona-fide purchaser. In this connection it has to be noticed that the agreement to sell was not incorporated in any revenue record. The statement of respondent No.1 was that he had checked the revenue record and had only thereafter purchased the land. Once that was so, the onus was upon the appellant to prove that respondent No.1 was not a bona-fide purchaser. In this regard the trial Court held in favour of the appellant for two reasons :-

(i)Admittedly the sister of respondent No.1 was married in the same village and as per the trial Court it was probable that she knew about the agreement to sell.

(ii)Admittedly there was some loan against the property and that loan was cleared after the sale deed in favour of respondent No.1.

As per the trial Court this sowed the seed of suspicion. In my considered opinion both the reasons taken by the trial Court were conjectural. There is no warrant for the proposition that every inhabitant of every village knows about every agreement to sell executed by every other inhabitant. Further even the fact that the loan amount was cleared after the sale deed could not give rise to the conclusion that the sale deed was

executed in undue haste.

Keeping in view the entire conspectus of facts, I am not persuaded that respondent No.1 was not a bona-fide purchaser.

Appeal stands dismissed.

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

**(AJAY TEWARI)
JUDGE**

24.07.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No