

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

**Date of decision : 21.11.2018**

**1. RSA No. 3827 of 2017(O&M)**

**Bhagat Ram(deceased) through his LRs  
and others**

**.....Appellants**

**versus**

**Krishna Devi**

**..... Respondent**

**2. RSA No.420 of 2018(O&M)**

**Bhagat Ram(deceased) through his LRs  
and others**

**.....Appellants**

**versus**

**Krishna Devi**

**..... Respondent**

**CORAM : HON'BLE MR. JUSTICE AMIT RAWAL**

**\*\*\***

**Present: Mr.M.L.Sharma, Advocate for the appellants.**

**\*\*\***

**AMIT RAWAL, J. (ORAL)**

This order of mine shall dispose of two Regular Second Appeals filed by Bhagat Ram-vendor arising out of decision of Civil suit No.10 of 2014 for possession and Civil Suit No. 10-A of 2014 against the vendee for specific performance of agreement to sell dated 20.06.2006 whereby defendants agreed to sell house in dispute to the plaintiff -appellant for a consideration of Rs. Five lakhs against receipt of Rs. Four Lakhs as earnest money. The date for execution and registration of sale deed was fixed as 30.09.2006. The plea taken by the vendee was that he had already deposited Rs.4 lakhs(four lakhs)in the account of the vendor but the possession was not handed over to him. Purchaser sought the specific performance. The suit

for specific performance was decreed whereas suit for possession was dismissed by both the Courts below.

The sole question which has been raised before this Court is as to whether the suit can be dismissed on the basis of agreement to sell executed by Mool Chand Saluja, attorney of vendor on the basis of certified copy and could be taken as a primary evidence.

I have heard learned counsel for the appellant and of the view that since both the parties have admitted the execution of the agreement in such circumstances the argument of Mr.M.L.Sharma does not hold any field as it is a conceded position on record that Mool Chand Saluja was the attorney of the vendor. Once there is admission of the attorney, non-production of original or primary evidence pales into insignificance. Suit for possession in my view would not have been maintainable as the remedy for the vendee was, in case of non-performance on the part of the vendor, to seek the cancellation of the contract and forfeiture of the money. In a decree for specific performance vendee has been directed to deposit a balance amount of Rs.One lakh within the specified period. The readiness and willingness has also been proved as the target date for execution of the sale deed was 30.09.2006. and suit No.10-A of 2014 was filed on 01.10.2007.

I do not find any illegality or perversity in the findings of the Courts below so as to warrant interference by this Court.

Both the appeals are dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**21.11.2018**  
**sunita**

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No