

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

**RSA No.4438 of 2017 (O&M)
Date of Decision.30.10.2018**

Swaranjit KaurAppellant
Vs
Salinder Singh ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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

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AMIT RAWAL J. (ORAL)

The appellant-defendant had not been successful in defending the suit for permanent injunction filed by the plaintiff stated to be in possession of the suit property on the basis of written agreement to sell dated 09.04.2007 for a consideration of ₹2,10,000/- alleged executed by the defendant in the presence of marginal witnesses.

The defendant contested the suit on the premise that no such agreement to sell was executed. It was forged and fabricated document. The possession was not that of the plaintiff.

Respondent-plaintiff brought on record material resulting into decretal of the suit and appeal laid before the lower Appellate Court was also dismissed.

Mr. Ghulam Nabi Malik, learned counsel appearing on behalf of the appellant submitted that the Courts below had not appreciated the fact that the agreement to sell had not been proved nor any suit for specific performance had been filed, therefore, the respondent-plaintiff could not have protected the possession as per the provisions of Section 53A of the Transfer of Property Act.

I am afraid the aforementioned argument of Mr. Malik is not sustainable, for, the plaintiff had been proved in possession of the property measuring 105 sq. yards as it is located in *lal lakir*. PW4 Bharpur Singh had proved agreement to sell as well as PW6 stamp vendor, thus, the plaintiff had been successful in proving the agreement to sell whereas the appellant-defendant had not been able to rebut the evidence. In such circumstances, the Courts below had no other option but to grant injunction.

I do not find any illegality and perversity in the judgments and decrees passed by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 30, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No