

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

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**CM No.12079-C of 2017 in/and
RSA No.4598 of 2017 (O&M)
Date of Decision : 17.01.2018**

Eklavya Goyal

..... Appellant

Versus

Gajjan Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Madan Gupta, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM No.12079-C of 2017

This is an application under Order 41 Rule 27 CPC for permission to lead additional evidence on record i.e. bank drafts and bank statements.

No reason has been shown why these documents could not have been placed on record before the trial Court. Consequently, the application does not fall within the parameter of Order 41 Rule 27 CPC.

Application stands dismissed.

RSA No.4598 of 2017

This appeal has been filed against the judgments of the courts below issuing a decree for mandatory injunction directing the appellant to refund an amount of Rs.14,60,813/-.

The admitted facts are that the respondents No.1 and 2 had entered into an agreement to purchase 46 kanals 13 marlas of land from the

appellant and respondents No.3 to 7. The sale deed was duly executed but

later on it transpired that there was a shortage of some land. The respondents No.3 to 7 made up pro-rata shortage which fall to their share by executing supplementary sale deed in favour of respondents No.1 and 2. It was at that stage that the respondents No.1 and 2 filed a suit for mandatory injunction against the appellant as well as respondents No.3 to 7 claiming that either the total land should be made up as per the original sale deed or the pro-rata amount be returned. The courts below noticed that as regards the respondents No.3 to 7, they had made up the pro-rata deficiency of their land and further found that as regards the appellant, there was no more land standing in his name and consequently issued a decree for mandatory injunction directing the appellant to return the amount as mentioned above.

Counsel for the appellant has not been able to show how the findings of the courts below are vitiated. It is clear that once the land sold was 46 kanals 13 marlas but the land at the spot was less, it was incumbent upon the vendors to make up that deficiency or to refund the amount. The respondents No.3 to 7 made up the pro-rata deficiency. Therefore, no fault can be found with the judgments of the courts below ordering the appellant to refund the pro-rata excess amount which he has received.

Appeal is dismissed. No costs.

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

(AJAY TEWARI)
JUDGE

17.01.2018
Pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No