

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

**RSA No.4828 of 2017 (O&M)
Date of Decision.01.11.2018**

Reshmi and othersAppellants
Vs
Jagdish ...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashok Verma, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.12807-C of 2017

For the reasons stated in the application, delay of 19 days
in filing the appeal is condoned.

Application is allowed.

RSA No.4828 of 2017

The appellants-defendants had not been successful in
defending the suit of specific performance of agreement to sell dated
15.6.2009 in respect of land measuring 9 kanals 11 marlas agreed to
be sold for ₹2,98,438/- against earnest money of ₹1,40,000/-. The
plaintiff sought specific performance of the aforementioned
agreement on the premise that the same was scribed by Dilbag Singh
son of Reshmi and husband of Leelawati from one Bal Kishan Gupta,
Advocate and appended his signature after going through its contents
and witnesses were Kartar Singh son of Sarwan and Surja Ram son of
Sawant Ram. The stipulated date for execution and registration of the
sale deed was extended from 15.12.2009 to 14.05.2010 and in this
process, he had received another amount of ₹81,000/-, in all a sum of
₹2,21,000/- was received as earnest money. The plaintiff marked

presence on 17.05.2010 before the Registrar but the defendant did not turn up, thus, sought discretionary relief.

The appellants-defendants opposed the suit by denying the execution of the agreement to sell or receipt of the earnest money. The agreement was said to be a forged one.

On the preponderance of the evidence, the trial Court decreed the suit and the appeal taken by the defendants before the lower Appellate Court was also dismissed.

Mr. Ashok Verma, learned counsel appearing on behalf of the appellants-defendants submitted that both the Courts below have abdicated in not noticing the fact that plaintiff was not ready and willing to perform his part of agreement as readiness and willingness was conspicuously absent. Witnesses of the agreement have not been coherent and consistent. Compromise had also been ignored. Legal notice Ex.P6/A was never received. The application before the Appellate Court for additional evidence to place on record documents that the defendant was admitted in hospital had erroneously been dismissed, therefore, there is abdication.

I am afraid aforementioned arguments of Mr. Verma are not sustainable, as the execution of the agreement to sell has been proved through the testimony of the attesting witness, much less, the receipt of earnest money of ₹1,40,000/- and ₹81,000/-, in all ₹2,21,000/-. Defendants have not disputed signature of Dilbag Singh on the agreement to sell. Marking of presence before the Sub Registrar on 17.05.2010 and filing of the suit in June, 2010 reflected the readiness and willingness on the part of the plaintiff. The

defendants have failed to rebut the onus discharged by the plaintiff.

As an upshot of my finding, I do not find any irregularity and perversity in the judgments and decrees rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 01, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No