

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RSA-4485-2018 (O&M)
Date of Decision : 31.7.2018

Samunder Singh

....Appellant

vs.

Om Parkash and another

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Vipin Yadav, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below whereby a suit filed by the appellant for specific performance was decreed in the alternative that is for recovery of money.

The case of the appellant was that respondents had executed agreement to sell dated 25.8.2010 whereby he had undertaken to sell 4 Kanals of land for total cost of Rs.5,00,000/- and received a sum of Rs. 1,75,000/- as earnest money. The due date for registration was 1.4.2011 and on that date the appellant appeared before the Sub-Registrar but the respondents did not appear.

The case of the respondents on the other hand was that in fact they had taken a loan from the appellant and to secure that loan the appellant had got executed an agreement to sell. They referred to three earlier agreements of similar nature which had been obtained by the appellant in the years 2008 and 2009 and on those occasions those

agreements had been cancelled after the money was paid to the appellant. They further disputed the readiness of the appellant.

Both the Courts below held that once the documents Ex.D1, D2 and D3 were accepted it showed that the appellant had even earlier lent money and had got executed the agreements to sell and consequently, held that the appellant was not entitled to discretionary relief for specific performance. Hence, the present appeal.

Learned counsel has argued that documents Ex.D1, D2 and D3 were independent transactions. These arguments were raised before the Courts who noticed the same and rejected it by holding that documents Ex.D1, D2 and D3 reveal a pattern of which the present agreement to sell was also a part.

Having heard the learned counsel and having gone through the documents, I am not persuaded to hold that the findings of the Courts below regarding discretionary relief are flawed in any manner. Consequently, the appeal stands dismissed.

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

31.7.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No