

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-5051-2018 (O&M)

Date of decision: October 03, 2018

Sharafat Ali

...Appellant

Versus

Zamil Ahmed

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ranjit Saini, Advocate for the appellant.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/respondent filed a suit for possession by way of specific performance against the defendant/appellant regarding agreement to sell in respect of a double storey house, situated in village Shadipur, District Yamuna Nagar, with consequential relief of permanent injunction restraining defendant from alienating the suit property to any one except the plaintiff as also from changing its nature. It was averred that defendant entered into agreement to sell dated 15.11.2008 with the plaintiff in respect of the suit property for a sale consideration of Rs.3.00 lacs. He paid Rs.1.00 lac to the defendant as earnest money and target date for execution and registration of sale deed was fixed on or before 15.05.2009. On the target date, plaintiff remained present in the office of Sub Registrar, Jagadhri but defendant did not turn up. Defendant resisted

the suit. He denied execution of any such agreement or payment of earnest money. It was averred that the suit land being joint property of their family, was being used for residence purposes. After hearing the parties and perusing oral as well as documentary evidence, the trial court decreed the suit by passing a decree for possession by way of specific performance of agreement to sell, directing defendant to execute and get the sale deed registered in favour of plaintiff after receipt of remaining sale consideration within a period of two months from the date of order. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. It is evident that plaintiff had fully proved the agreement to sell dated 15.11.2008 by examining handwriting and finger prints expert, who submitted his report Ex.PW5/B, which had not been rebutted by the defendant. It had also been proved that plaintiff always remained ready and willing to perform his part of the contract and thus, the trial court had rightly decreed the suit. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

(RAJAN GUPTA)
JUDGE

October 03, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No