

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.5593 of 2017 (O&M)

Date of decision: 13.09.2018

Santokh Singh

..... Appellant

Versus

Hazara Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sunil Agnihotri, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM-14771-C-2017

Application is allowed and the delay in re-filing the appeal is
condoned.

CM-14772-C-2017

Deficiency in the Court fee has been made good. The delay, if
any, is condoned.

Application stands disposed of.

Main Case

Defendant No.1-appellant is in the regular second appeal
against the concurrent finding of fact arrived at by the Courts below while
granting a decree for joint possession by way of specific performance of the
agreement to sell dated 25.10.2007.

Plaintiff claim that he was always ready and willing but the
defendant did not come forward to honour the agreement to sell. The

defendant No.1-appellant contested the suit and pleaded that it was a loan transaction for sending the son abroad. Both the Courts on appreciation of evidence have found that the plaintiff has successfully proved the agreement to sell and his readiness and willingness. The marginal witness of the agreement to sell Avtar Singh has been examined as PW-5 whereas scribe Gurdev Singh has also been examined. The plaintiff has also appeared in witness-box and supported his case. Both the Courts have found that even after receipt of earnest money of Rs.7,50,000/- out of total sale consideration of Rs.10,00,000/-, the defendant further received additional amount of Rs.90,000/- on 10.04.2008. It has come in evidence that the plaintiff visited the office of the Sub-Registrar on 27.06.2008 for execution and registration of the sale deed as 28.06.2018, 29.06.2008 and 30.06.2008 were holidays. The plaintiff marked his presence. Apart therefrom, both the Courts have noticed that promptly the suit was filed.

Although, learned counsel for the appellant made sincere attempt to persuade this Court to take a different view, however, keeping in view the findings of fact arrived at by the Courts which are neither shown to be perverse nor result of any misreading or non-reading of evidence, this Court does not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

13.09.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No