

105

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

RSA No. 5634 of 2017 (O&M)
Date of Decision: 10.10.2018

Gurpreet Singh and another

-Appellants

Vs

Jarnail Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Suresh Kumar Aneja, Advocate,
for the appellants.

RAJ MOHAN SINGH, J. (ORAL)

CM-14894-C-2017

Since the deficiency in Court fee has been made good, therefore, application stands disposed of.

Main case (O&M)

Defendants are in regular second appeal in a suit for recovery filed by the plaintiff. The suit was filed on the basis of agreement to sell executed between the plaintiff and the defendants wherein the defendants agreed to sell their agricultural land @ Rs.4,90,000/- per acre. An amount of Rs.4 lacs was paid as earnest money. The target date for execution of sale deed was fixed as 15.06.2006. An additional amount of Rs.1 lac was also obtained by the defendants on 23.03.2006 but

the sale deed was not executed on the target date.

Plaintiff filed the suit on the ground that on 29.06.2007, plaintiff came to know from the Jamabandi that the defendants were not even owners of the suit property. An amount of Rs.5 lacs towards principal and Rs.10,00,000/- towards damages were claimed in the suit.

The suit was contested by the defendants thereby denying the agreement to sell. Plaintiff in his evidence proved execution of agreement to sell by examining attesting witness to the agreement to sell. After discharging the onus in respect of execution of agreement to sell, the onus shifted upon the defendants to prove that the execution of agreement to sell stood vitiated on account of fraud.

No evidence was led by the defendants. Even the defendants did not appear in the witness box.

It is a settled principle that plea of fraud has to be proved like a criminal case. Since the fraud has not been proved by the defendants by leading any cogent evidence and the defendants have not appeared in the witness box, therefore, trial Court decreed the suit to the extent of Rs.5 lacs only. The judgment and decree was upheld by the lower Appellate Court.

The findings of fact recorded by both the Courts below cannot be faulted with. The findings cannot be presumed

to be recorded by mis-reading of evidence or having suffered with any perversity.

No law point worth cognizance of this Court is involved in the present appeal.

This regular second appeal is accordingly, dismissed in limine.

Since the appeal has been decided on merits, the miscellaneous applications stands disposed of accordingly.

10.10.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No