

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

RSA No. 5776 of 2017 (O&M)
Date of decision : July 12, 2018

Bhag Singh

..... Appellant

v.

Harjinder Kaur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms. Poonam Verma, Advocate
for the appellant.

Ajay Tewari, J (Oral)

This appeal has been filed against the judgment of the lower appellate Court reversing that of the trial Court and thereby decreeing a suit filed by the plaintiffs/respondents No.1 and 5.

Admitted facts are that the appellant/defendant No.1 had sold some land to the plaintiffs. In the sale deed, it was mentioned that the land had been sold along with the motor connection which was located therein. Later-on when the plaintiffs tried to get that connection transferred in their name, the appellant denied it, which led to the filing of the instant civil suit. The case of the plaintiffs was not only based on the sale deed but also on the affidavit which was allegedly executed by the appellant (but which the appellant has stoutly denied executing).

The trial Court held that the affidavit was not proved but then went to dismiss the suit on the basis of that very affidavit saying that in that

affidavit number of the connection was wrongly given. The plaintiffs filed an appeal and the lower appellate Court held that the appellant had not been able to prove the claim that in fact he had never sold the motor connection and the mention of this fact in the sale deed was wrong. The appellate Court further held that once the affidavit Mark A was to be discarded it had to be discarded in entirety and the Court could not discard one part of it and rely on the other to non suit the plaintiffs. To my mind, the approach of the lower appellate Court is correct. The important thing is that in the sale deed the appellant had categorically mentioned that he had sold the motor connection located in the land which was sold. It is not disputed that the connection in question was the only motor connection which was located in the said land. In the circumstances, there is no reason to interfere with the findings of the lower appellate Court. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

July 12, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No