

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

RSA No.5931 of 2017 (O&M)

Date of decision:23.05.2018

Jarnail Singh (since deceased) through LR

... Appellant

Vs.

Santokh Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Naveen Batra, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.15576-C of 2017

The application is allowed subject to all just exceptions. Legal representative of appellant as mentioned in the application is ordered to be brought on record for the purpose of prosecuting the present appeal.

RSA No.5931 of 2017 (O&M)

The appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby, suit for possession by way of specific performance of the agreement to sell dated 22.02.2008 allegedly executed by appellant-defendant has been decreed by the trial Court and affirmed by the Lower Appellate Court.

Mr. Naveen Batra, learned counsel appearing on behalf of the appellant-defendant submits that respondent-plaintiff instituted the suit seeking specific performance of the agreement to sell, ibid allegedly

executed by the appellant-defendant in favour of respondent-plaintiff for a total sale consideration of ₹8,00,000/- in respect of 8 kanals of land against the earnest money of ₹1,16,000/-. The stipulated date for execution and registration of the sale deed was fixed 22.06.2009. As per the averments made in the plaint, plaintiff intimated the defendant through a legal notice dated 16.06.2009 for remaining present in Tehsil Complex and for the whole day, he remained present on the date fixed but the defendant did not turn up, therefore, cause of action arose to file the suit on 22.07.2009.

The aforementioned suit was contested by defendant by denying the agreement to sell, rather it was averred that alleged agreement to sell, ibid was forged and fabricated document. The prevailing market rate was not less than ₹15,00,000/- per acre, therefore, no sane person would have agreed to sell the land for a paltry amount of ₹8,00,000/-, therefore, the judgments and decrees of the Courts below are not sustainable in the eyes of law and liable to be set aside as the price of the property had been proved to be higher. The agreement to sell being forged and fabricated had not been proved but the Court below ruled out the same on the premise that the defendant has not been able to belie the signatures on the agreement to sell, thus, urges this Court for setting aside the findings under challenge.

I have heard the learned counsel for the appellant-defendant appraised the impugned judgments and decrees of the Courts below and of the view that the respondent-plaintiff had not only proved the execution of the agreement to sell through the testimony of attesting witnesses but also

consideration of earnest money. A legal notice was sent through registered post, service of the same carried a presumption of truth. The suit was filed on 22.07.2009, a month thereafter, therefore, readiness and willingness had been proved to the hilt. On the other hand, appellant-defendant failed to belie the signatures on the agreement to sell, thus, the Courts below did not have any occasion but to grant the discretionary relief.

I am afraid the aforementioned arguments of Mr. Batra, have not been able to cut ice much less bringing the case within the expression illegality and perversity enabling this Court to form a different opinion than the one arrived at by the Courts below.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees of the Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

No other argument has been raised.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 23, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No