

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

**RSA No.5707 of 2018 (O&M)
Date of Order:08.10.2018**

Sunehri Devi

..Appellant

Versus

Santosh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gaurav Mohunta, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below while dismissing the suit filed by the plaintiff for declaration with a prayer that specific performance of an unregistered sale deed be ordered.

Admitted facts are that defendant no.1 was owner of 8 kanals of land and the plaintiff had pleaded that there was oral agreement to sell which was followed by a sale deed dated 19.03.2009. However, on presentation before the Sub-Registrar, it was not registered as No Objection Certificate from District Town Planner was not produced. It was pleaded that defendants went to the office of District Town Planner but did not return.

Defendant no.1 sold the property through registered sale deed in favour of defendant no.2 on 20.04.2009 i.e. after 1 month of the alleged sale deed executed in favour of the plaintiff. Defendant no.1 did not contest the suit, whereas defendant no.2 claimed that she is a bonafide purchaser of

the property.

The courts noticed that defendant no.1 appeared as PW5 i.e. on behalf of the plaintiff and admitted her thumb impressions on the unregistered sale deed dated 19.03.2009. Both the courts noticed that when Man Singh, husband of the plaintiff, appeared in evidence, he stated that there was oral agreement to sell one day before execution of the sale deed. However, on being confronted, he admitted that there was a previous agreement to sell with his son also.

It has also come in evidence that defendant no.1 had mortgaged the suit land with Satbir son of the plaintiff for a period of 3 years i.e. From 09.01.2007 to 08.01.2010. Plaintiff further failed to explain as to why sale deed dated 19.03.2009 was not registered by the Sub-Registrar, whereas after a month, same Sub-Registrar registered the sale deed in favour of defendant no.2 even in absence of no objection certificate.

Learned first appellate court has found that in fact plaintiff and defendant no.1 have colluded and they want to de-fraud defendant no.2, who is a bonafide purchaser. The courts have further found that the plaintiff has not filed the case with clean hands.

Learned counsel for the appellant has been heard at length and with his able assistance, this court has gone through the judgments passed by the courts below.

Learned counsel for the appellant submitted that once defendant no.1, who was the owner, admits her thumb impressions on the un-registered sale deed, dated 19.03.2009, therefore, the courts were wrong in dismissing the suit. However, on being questioned, learned counsel had no answer to the reasons given by the trial court as well as by the first

appellate court while doubting the correctness of the unregistered sale deed dated 19.03.2009. Learned counsel was fair enough to admit that the plaintiff had concealed material facts from the Court.

In view thereof, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

October 08,2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No