

RSA-2554 of 2019 (O&M)

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

RSA-2554 of 2019 (O&M)
Date of decision: 18.07.2019

Bishamber and another

.....Appellants

versus

Sohan Lal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. J.P. Sharma, Advocate,
for the appellant.

RAMENDRA JAIN, J. (ORAL)

Unsuccessful defendants have preferred this Regular Second Appeal against the judgment and decree of the lower appellate Court dated 17.12.2018, dismissing their appeal, while affirming the judgment and decree of the trial Court dated 16.04.2015, whereby respondent No.1-plaintiff was held entitled to recover ₹2,66,000/- @ 9% per annum from the appellants from the date of agreement to sell till actual realization.

Briefly, respondent No.1-plaintiff filed a suit for specific performance and prohibitory injunction against the appellants on the basis of agreement to sell dated 05.07.2010 entered into by the appellants in his favour, whereby they agreed to sell 3 kanals 6 marlas of their land to him in a sale price of ₹2,80,000/-, out of which ₹2,66,000/- was paid as earnest money at the time of agreement and remaining ₹14,000/- was to be paid at the time of execution and registration of sale deed on 04.07.2011.

Trial Court after affording full opportunities to the appellants-

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defendant and holding trial, decreed suit of respondent No.1-plaintiff for recovery as narrated above in the opening part of the judgment.

Being aggrieved, appellants approached first appellate Court, but remained unsuccessful as their appeal too was dismissed vide impugned judgment and decree.

Learned counsel for the appellants *inter alia* contends that both the Courts below failed to appreciate that suit of respondent No.1-plaintiff for recovery of ₹2,66,000/- ought not to have been decreed, because no such prayer was made by him in the plaint. In support of his contention, learned counsel for the appellants placed reliance on the judgment of this Court in ***Surmukh Singh v. Swaran Singh*, 2017(3) PLR 839.**

Having given thoughtful consideration to the submission made by learned counsel for the appellants, this Court finds the instant Regular Second Appeal completely devoid of any merit for the reasons to follow.

No question of law much less substantial has been raised in this appeal. Therefore, same is held not maintainable.

On perusal of plaint of respondent No.1-plaintiff, it is apparent that apart from the relief of specific performance, he also sought alternative relief which the Court would deem fit in the circumstances of the case. Considering this aspect of the matter, authority relied upon by learned counsel for the appellants being distinguishable from the facts of present case, is of no help to the appellants.

No other point has been urged or arises for consideration in this appeal.

I have gone through judgments of both the Courts below and

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find no illegality or perversity in the same.

Dismissed.

July 18, 2019
R.S.

(Ramendra Jain)
Judge

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