

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

**RSA No.269 of 2007 (O&M)
Date of Decision:28.02.2019**

Labho and others

...Appellant(s)

Versus

Khem Raj (since deceased) through his LRs

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None for the appellants.
Mr.Atul Gaur, Advocate for
Mr.Sumeet Goel, Advocate for the respondent(s).

ANIL KSHETARPAL, J.

Case called twice. Counsel for the appellants is not present. Hence, this Court is left with no other option except to rely upon the arguments of learned counsel for the respondent.

The defendants-appellants are in the regular second appeal against the decree passed by the learned first appellate court, ordering refund of earnest money along with interest @6% per annum in place of a decree for possession by way of specific performance of the agreement to sell.

The defendants had taken a plea that the agreement to sell was result of fraud. However, both the courts below have found that there is no evidence of fraud. The learned first appellate court has refused to exercise discretion on the ground that complete readiness of the plaintiff is not proved. In these circumstances, the learned first appellate court has correctly ordered refund of the amount.

In view of the above, there is no ground to interfere. Hence, regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

28.02.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No