

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

**RSA No.3417 of 2006 (O&M)
Date of Decision:15.02.2019**

Sher Singh

...Appellant(s)

Versus

Jasbir Singh

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Salina Chalana, Advocate for
Mr.Suvineet Sharma, Advocate for the appellant.

Mr.Chanakya Pandit, Advocate for the respondent.

ANIL KSHETARPAL, J.

The defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

At the time of admission of the appeal, following substantial question of law was framed:-

“Whether the agreement of sale dated 5.7.1999 was in the sum of Rs.3,30,000/- per acre or Rs.3,00,000/- was the total sale consideration?”

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by the courts below and the record.

No doubt, the defendant had purchased this very property for a total sum of Rs.4,34,500/- on 27.05.1997. However, it has come on record that the aforesaid property was undivided share in a joint khata and the defendant could not get possession of the property. He even filed an

application for partition of the entire land as well as correction of Khasra Girdawari. Still further on reading of the statement of defendant-appellant who has appeared as DW-4, it is apparent that he had decided to sell the property as he was not owner of any other land in the village and he wanted to purchase the property in some other village in the area near to Yamuna river. Thus, intention to sell is apparent.

The reason for reduction of the price is also forthcoming in the evidence. Further, insufficiency of price even if proved, is not a ground to refuse specific performance, unless other grounds are established. Once the defendant who had purchased the property in the year 1997 and thereafter filed two litigations and thereafter decided to sell the property, it is proved that why the defendant had agreed to sell the property at reduced price. There is a written contract dated 5.7.1999 between the parties, which is not only thumb marked by the defendant-appellant but also signed in Hindi language. The agreement to sell is also scribed in Hindi language. It is apparent that the total sale price was fixed at Rs.3,00,000/- for the entire land and not at the rate of Rs.3,30,000/- per acre. In the agreement to sell itself, it has been provided that the defendant-appellant has received a sum of Rs.2,00,000/- and balance amount would be payable at the time of registration. At one place, there was cutting/over writing which was also signed and thumb marked by the appellant and in the last line of the agreement, it was recited that the amount of earnest money should be read as Rs.2,00,000/-. Thus, there is no ground to doubt the correctness of the agreement to sell and execution whereof is not in dispute. The only dispute

is with regard to rate at which the property was agreed to be sold.

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.

15.02.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No