

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 204

RSA-1225-2009 (O&M)

Date of decision : 08.01.2019

Parkash Singh

..... Appellant

VERSUS

Paramjit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vikas Singh, Advocate, for the appellant.

Mr. Premjit Kalia, Advocate, and
Mr. Kewal Krishan, Advocate, for the respondents.

DEEPAK SIBAL, J. (ORAL)

Balwinder Singh filed a suit seeking therein specific performance of agreement to sell dated 03.12.2001 entered into between him and the appellant qua land measuring 5 kanals and 14 marlas detailed and described in the plaint (for short, the suit property). According to Balwinder Singh the total sale consideration was ₹1,42,500/- out of which he had paid to the appellant ₹1,05,000/- as earnest money and the remaining amount was to be paid at the time of execution of the sale deed on 20.04.2002. Since 20.04.2002 and 21.04.2002 were holidays Balwinder Singh remained present in the office of the Sub-Registrar, Ajnala on the next working day but the appellant failed to appear. Thereafter since the appellant was threatening to alienate the suit property, he filed the instant suit.

On being put to notice the appellant appeared before the Trial Court and filed his written statement denying the aforesaid agreement to sell alleged to have been entered into between him and Balwinder Singh. The case set up by the appellant was that the agreement to sell in question was a forged document. In fact, the appellant had taken a loan of ₹30,000/- from

Balwinder Singh which he had repaid with interest and at that time Balwinder Singh had obtained thumb impressions of the appellant on some blank papers which he had now converted into the aforesaid agreement to sell.

Balwinder Singh filed a replication reiterating the stand taken by him in this behalf.

During the pendency of the trial Balwinder Singh died and in his place the respondents were impleaded as his legal representatives.

The Trial Court after sifting the evidence which had come on record decreed the suit filed by Balwinder Singh. The appellant filed an appeal against the judgment and decree passed by the Trial Court which was dismissed by the Appellate Court giving him a cause to knock the doors of this Court through the present second appeal.

After hearing learned counsel for the parties and perusing the record it comes to light that the agreement to sell dated 03.12.2001 was duly proved by the respondents through the examination of the deed writer as PW-1 as also one of its attesting witnesses as PW-2. On the other hand, the appellant who himself appeared as DW-1 and Darshan Singh who was produced by the appellant as DW-2 during the course of their cross examination were unable to tell the date, month and even the year when the appellant had taken the alleged loan from Balwinder Singh, who was the predecessor-in-interest of the respondents. In fact, the appellant while appearing as DW-1 admitted before the Trial Court that Balwinder Singh had never obtained his thumb impressions on any blank paper virtually demolishing the stand taken by him in his written statement.

So far as the issue with regard to leading of additional evidence by the appellant before the Lower Appellate Court in the form of production of the second attesting witness to the agreement to sell is concerned, the Appellate Court rightly rejected the application filed by the appellant on the ground that such evidence was not produced by him before the Trial Court which had granted sufficient opportunities to him to lead his evidence and that no plausible explanation was forthcoming from him as to why such evidence was not led during the course of the trial.

In view of the above, no interference is warranted with the concurrent findings of fact returned by both the Trial Court as also the Appellate Court. No question of law much less any substantial question of law is also found to arise in the present appeal.

Dismissed.

08.01.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No