

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

**RSA No.4175 of 2019(O&M)
Date of Decision: 09.09.2019**

Devki Nandan

.....Petitioner

Versus

Asha Mahajan and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Puneet Jindal, Sr. Advocate with
Mr. Ashutosh Gupta, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Plaintiff is in regular second appeal against the concurrent judgments and decrees passed by the Courts below in a suit for permanent injunction.

[2]. Plaintiff filed a suit for permanent injunction, restraining the defendants not to interfere in the life, liberty and peaceful possession of the plaintiff over the suit property measuring 4/285 share out of 14 bighas, 5 biswas comprised in khasra Nos.218, 240 and 242, khewat No.18, khatoni No.51 in village Hallomajra, Hadbast No.219, UT, Chandigarh.

[3]. Plaintiff asserted that there was an oral agreement to

sell in the year 2009. No objection certificate was to be issued by the Joint Commissioner, Municipal Corporation, Chandigarh for execution of sale deed in favour of the plaintiff. Total sale consideration was fixed as Rs.15 lacs and out of which, an amount of Rs.13 lacs was paid by the plaintiff in the presence of one Rakesh Sood. Possession was delivered to the plaintiff. When the defendants started raising construction and uprooting the trees, the present suit came to be filed.

[4]. Defendants No.1 and 2 contested the suit and asserted that the suit property was purchased by defendant No.1 vide registered sale deed from the previous owner. Defendant No.1 never agreed to enter into any agreement to sell with the plaintiff. Plaintiff had friendly relations with the husband of defendant No.1 and she approached the husband of defendant No.1 to purchase the plot. No price was settled. During discussion, it came to the knowledge of the defendants that the sale deed could not be executed due to some litigation in the High Court. It was only in this background, the plaintiff allured the husband of defendant No.1 in good faith to sign an application for getting NOC from the concerned authority. No NOC was granted and no deal was finalized. Defendants No.1 and 2 are the owners of the property and they cannot be restrained by the plaintiff.

[5]. Evidently, no suit for specific performance was filed by the plaintiff. There was no agreement in existence. Plaintiff set up his case on the basis of alleged agreement to sell in which no target date was fixed. The alleged plea of possession in favour of the plaintiff cannot be protected in terms of Section 53-A of the Transfer of Property Act as the same is a shield available to the defendants. Even the application under Order 6 Rule 17 CPC filed by the appellant was dismissed.

[6]. In the facts and circumstances of the case, the suit for permanent injunction was not maintainable, nor the alleged possession of the plaintiff/appellant was found. Plaintiff has to stand on his own legs and he cannot take benefit of weaknesses of the defendants case in any manner. Both the Courts below have concurrently held that the plaintiff could not prove his case on the basis of any evidence and preponderance of probability on the basis of such evidence. No question of law worth consideration is involved in the present appeal. This appeal is found to be totally devoid of merits and is accordingly dismissed.

09.09.2019

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking Yes/No

Whether reportable Yes/No