

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1594 of 2012 (O&M)

Date of decision: 11.02.2019

Gurdeep Singh and another

..... Appellants

Versus

Gurdev Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vishal Lamba, Advocate
for the appellants.

Mr. I.S. Mann, Advocate
for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below dismissing the suit filed by them for possession by way of specific performance of the agreement to sell dated 14.08.1998.

The suit was instituted on 29.05.2002. The execution of the agreement to sell, payment of earnest money is not in dispute. The dispute is only with regard to the writing dated 27.12.1998 which is alleged to have been interpolated by the plaintiffs. Both the Courts on examination of the original record had found that the additional condition which has been incorporated in the beginning of the writing dated 27.12.1998 is in fact result of interpolation added later on taking benefit of the open space at the beginning of the writing as the signatures of the defendants and witnesses were already available at the place where recital had come to an end. The

first two lines of the endorsement have been extracted by the Courts below and finding of fact was arrived at that such writing is result of interpolation. It will be noted that originally as per the agreement to sell, 82 kanals 19 marlas was agreed to be sold with all rights including right to get canal water. However, through endorsement which is alleged to be result of interpolation, it was provided that the seller would first get the turn of water and make an arrangement for water channel on the spot whereas in the later part of the aforesaid writing, it has been recited that the terms and conditions of the original agreement would remain same. The Courts have found that first two lines are result of interpolation. The sentence from which the writing has been started is also not proper.

Although, learned counsel for the appellants made sincere attempt, however, could not establish that the judgments passed by the Courts below require any interference. Still further, the suit was filed after a period of approximately 3 years from the extended date for which no plausible explanation is forthcoming. The Courts have concluded that the plaintiffs were never ready and willing to perform their part of the contract.

In view thereof, there is no scope for interference with the findings of fact arrived at by the Courts below.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

11.02.2019
Dinesh Bansal

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No