

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

**RSA-4494-2019 (O&M)
Date of Decision : 16.10.2019**

Harvinder Kaur

Versus

..... Appellant

Mandeep Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Swarn Tiwana, Advocate
for the appellant.

Mr. Aman Dhir, Advocate
for the respondent.

RAMENDRA JAIN, J. (Oral)

Through this regular second appeal, unsuccessful defendant has laid challenge to judgment and decree dated 03.09.2019 of the lower appellate court, affirming judgment and decree dated 17.01.2018 of the trial court, whereby, suit for possession of respondent-plaintiff by way of specific performance was decreed.

Briefly, respondent, on the basis of agreement to sell dated 06.12.2014, allegedly executed by appellant in his favour, filed a suit for specific performance against her.

Upon notice, appellant, denying the very execution of the aforesaid agreement to sell and her signatures thereupon, contested the suit.

The learned trial court, after holding full fledged trial, decreed the suit of respondent vide judgment and decree dated 17.01.2018.

Being aggrieved, appellant approached the first appellate court,

but remained unsuccessful as her appeal was dismissed vide judgment and decree dated 03.09.2019.

Learned counsel for appellant inter alia contends that both the courts below have failed to appreciate hardship being faced by appellant as house in question is only living place of her family. In case, she is evicted from the same, appellant and her three children will come on the road.

On the other hand, learned counsel for respondent submits that appellant is totally a dishonest lady. She with an intention to get unwarranted sympathy of the court, has taken above false plea, inasmuch as, initially, she denied very execution of the agreement to sell by her and when did not succeed then now has come with above plea. Dishonest person, like appellant, is not entitled to any sympathy of the court. Both the courts below discussing this aspect of the matter in detail, decreed suit of the respondent.

Having given thoughtful consideration to the rival submissions, made by learned counsel for the parties, this court finds the instant appeal merits dismissal for the reasons to follow.

Appellant-defendant, in her written statement, categorically denied the execution of agreement to sell dated 06.12.2014 in favour of respondent-plaintiff. Appellant also denied the receipt of Rs.11,40,000/- onwards earnest money. Even, at the time of leading her evidence in-affirmative, appellant again tried to deny the aforesaid agreement to sell. However, the respondent could prove due execution of agreement to sell the house in his favour by the appellant. To rebut, appellant examined Jaswant Singh, attesting witness, as DW2, who instead of helping the appellant, favoured the respondent, admitting due execution of said agreement to sell

in favour of respondent-plaintiff and also receiving money of Rs.11,40,000/- by the appellant from him.

That apart, agreement to sell Ex.P1 was not only signed by appellant, rather was signed by her two sons namely Ranvir Singh and Manpreet Singh. It is well settled proposition of law that allegations of misrepresentation and fraud, even in civil cases, are to be proved like a criminal charge. In the instant case, appellant did not lead any evidence in support of her allegations that agreement to sell Ex.P1 was the result of fraud and misrepresentation, what to talk of any cogent and convincing. Therefore, bald statement of appellant denying the case of respondent was rightly rejected by the Courts below.

More so, appellant, contrary to her stand that agreement Ex.P1, was the result of fraud and misrepresentation also took the plea that her signatures were taken on the said agreement when it was blank. Thus, it is apparent that the appellant took all the false pleas available to her to wriggle out from her responsibility to perform her part of contract.

As far as hardship of the appellant is concerned, prior to the execution of agreement to sell, in question, in favour of respondent-plaintiff, appellant had sold the house in dispute to one Sukhvir Singh. Thus, prima facie appellant was not intending to keep the house in dispute with her, rather was out and out to sell the same and extract money with malafied intention by executing agreements one after the other. Such a dishonest person does not deserve any sympathy from the Court. The lower appellate court has discussed this aspect of the matter in detail while holding that hardship of appellant is not worth considerable.

In view of above factual and legal aspect, this court does not

find any irregularity or illegality in the concurrent findings recorded by the courts below.

No question of law much less substantial has been raised in this appeal. Hence the same is held not maintainable.

Dismissed.

16.10.2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No