

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

**RSA No.2120 of 2016(O&M)
Date of Decision.20.02.2019**

Nath Singh ...Appellant
Vs
Amrik Singh and others ...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jatinder Singla, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-defendant No.1 has not been successful in defending the suit for specific performance of agreement to sell dated 30.05.2005 stipulating the date of execution of the sale deed as 25.02.2006 agreed to be sold for a consideration of ₹19,32,500/- on payment of receipt of earnest money of ₹3,50,000/-. It was alleged that the aforementioned amount was paid in the presence of attesting witness Joga Singh and Gurjant Singh. The defendants did not come forward on the stipulated date despite the fact that plaintiff marked his presence. The plaintiff had always been ready and willing to perform his part of agreement.

Only defendant No.1 contested the suit stated to be barred by limitation and agreement to sell a fraud and fabricated document.

Plaintiff examined three witnesses whereas defendant examined himself.

Mr. Jatinder Singla, learned counsel appearing on behalf of the appellant submitted that judgments and decrees of the Courts below are not sustainable as both the courts below gravely erred in not appreciating and misreading the evidence, therefore, caused material

prejudice to the appellant as agreement to sell was full of alterations. In other words, there were number of discrepancies in the statement of witnesses PW1 and PW2. PW1 in the cross-examination stated that I had purchased the stamp paper of worth of ₹300/- which were taken from Tehsil Moonak and the agreement was registered before the Tehsildar whereas PW2 Joga Singh stated that stamp paper was purchased from Moonak which was purchased by Karnail Singh. Agreement to sell did not bear signature and thumb impression of any lambardar.

I am afraid aforementioned arguments are not sustainable, as defendant has not been able to belie his signature on the agreement to sell and explanation of not appearing before the Registrar or receipt of earnest money or some other witness. Respondent-plaintiff filed the suit on 14.03.2006. Readiness and willingness cannot be said to be wanting. Both the witnesses have been consistent and coherent and the affidavits of presence have been proved as Ex.P2 and P3.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact and law rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 20, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No