

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

**RSA No.3922 of 2016 (O&M)
Date of Decision.18.03.2019**

Bahadur Singh

...Appellant

Vs

Davinder Singh (since deceased) through LRs

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. P.S. Dhaliwal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The regular second appeal is directed against the concurrent finding of fact whereby suit of the plaintiff for specific performance of agreement to sell dated 15.6.1983 fixing the target date as 10.07.1983 in suit filed on 14.6.2000 has been dismissed on the ground of limitation.

It was alleged that there was a ban with regard to selling of the land holding and the defendant was to take permission from the competent authority but the permission was not taken by the defendant whereas certain sale deeds of 1980 and 1984 placed on record were executed after having obtained permission.

Defendants opposed the suit by filing separate written statements and denied execution of the agreement stated to be a fraud and fabricated document whereas defendant No.2 claimed to be bona fide purchaser for valuable consideration.

Plaintiff in support of pleadings tendered documents Ex.P1 to 31 and examined as many as five witnesses whereas defendants brought on record Ex.D1 jamabandi and examined DW1 Paramjit Singh.

Mr. Dhaliwal, learned counsel appearing on behalf of the

appellant submitted that sale deed Ex.P17 and P18 established that permission was sought from the Department for execution of the sale deed. Sale deeds are of the year 1980 and 1984. Categorical pleading in of plaint were not refuted emphatically, therefore, there was no requirement of law to establish the same but despite that sale deeds are the testimony that the defendant did not take any steps for obtaining permission, resulting into filing of the suit in 2000 as the time was not essence of the agreement.

I am afraid aforementioned argument of Mr. Dhaliwal is not sustainable, as the agreement contained the element of target date dated 10.07.1983. No documentary evidence has been placed on record to establish appearance or obtaining permission from the Land Ceiling Officer for sale of the land. Even though sale deeds brought on record, identity of the property falling under the Land Ceiling Act has remained a mystery. In the meantime, third party rights were created.

In view of such circumstances, concurrent finding of fact dismissing the suit on the ground of limitation cannot be said to be suffering from illegality and perversity, 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

March 18, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No