

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

RSA No. 4985 of 2019(O&M)

Date of decision: 19.12.2019

Parvesh Hari

.....Appellant

VERSUS

Kirpali and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Kartar Singh, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against judgments passed by the Courts whereby suit for specific performance of agreement to sell dated 22.04.2010 in respect of land measuring 4 kanals, purported to be executed by Sandeep (since deceased) was partly allowed by the trial Court qua refund of Rs.3 lakhs with interest at the rate of 6% to be realized from the property of LR's of deceased Sandeep. The Appellate Court modified the judgment and decree passed by the trial Court and respondents No.2 to 6 were directed to execute sale deed in favour of the appellant/plaintiff to the extent of 1 kanal against part payment of Rs.3 lakhs received by Sandeep (since deceased). Cross objections filed by respondents No.2 to 6 were dismissed for want of Court fees.

Counsel for the appellant would argue that though the Court in appeal has modified the judgment and decree passed by the trial Court by allowing part performance of agreement in respect of one kanal of land but there was no reason for the Court to reject his claim in respect of

remaining 3 kanals of land, subject matter of the agreement. Counsel would further argue that even if the receipts marked as Ex.P3 and P4 are taken out of consideration, the appellant is ready to pay balance sale consideration. To substantiate his contention for specific performance of the agreement, he has relied upon judgment of this Court **Lal Chand Vs. Tek Chand, 2013(5) RCR (Civil) 104** and that of Andhra Pradesh High Court **Thumu Srikanth Vs. Akula Babu, 2012(6) RCR (Civil) 3182**. It is further argued that respondents/defendants did not examine any expert to prove that receipts Ex.P3 and P4 are the result of forgery/fabrication.

I have heard counsel for the appellant, perused the paper-book and original records.

Apart from the fact that appeal has been filed after delay of 435 days, the same is devoid of merit and deserves to be dismissed.

During the course of hearing, the appellant produced various receipts with regard to payment from time to time, purported to be made to Sandeep. The agreement propounded by the appellant is dated 22.04.2010 marked as Ex.P1. The first two receipts marked as Ex.P3 and P4 are dated 13.01.2010 and 17.01.2010. These dates are mentioned in the body writing as well as above signatures of one of the witnesses namely Ravinder Kumar son of Jai Ram. This is never plea of the appellant that he made any payment to Sandeep even prior to agreement dated 22.04.2010 nor any such payment finds reference in the agreement Ex.P1. Meaning thereby that these receipts have been manufactured by the appellant, as has been so held by the Courts. Once a litigant is found to have prepared false document(s) for basing his claim before a Court of law, he is disentitled to get relief in exercise of discretionary jurisdiction. The Appellate Court,

despite having not set aside findings of the trial Court in respect of these receipts, still allowed specific performance of agreement in respect of one kanal of land by adjusting the amount of Rs.3 lakh alleged to be paid under the agreement. Further, it is pertinent to note that in the receipts Ex.P3 to P6, the date of agreement i.e. 22.04.2010 appears to have been mentioned with the same ink and hand, meaning thereby that these receipts were prepared at one time but later the dates with regard to payment have been incorporated therein. Keeping in view conduct of the appellant noticed by the Courts, it is difficult to accept his contention that he is entitle to specific performance even in respect of remaining 3 kanals of land. In view of the above, appellant cannot derive any advantage to his contention from the referred authorities decided in view of peculiar facts and circumstances of those cases.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

DECEMBER 19, 2019

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no