

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

**RSA No.600 of 2016 (O&M)  
Date of Decision.29.01.2019**

Manohar Lal and others

...Appellants

Vs

Raj Rani

...Respondent

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Sandeep Arora, Advocate  
for the appellants.

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**AMIT RAWAL J. (ORAL)**

Costs of Rs.2500/- has been deposited.

The appellant-defendant is in regular second appeal against the judgment and decree of the lower Appellate Court whereby suit of the respondent-plaintiff for specific performance of the agreement to sell dated 9.7.2008 in respect of house No.125/3 measuring 1.3/4 marlas described in the suit for total price of ₹3,30,000/- against receipt of ₹65,000/- as earnest money has been decreed, though dismissed by the trial Court.

The plaintiff sought the specific performance of agreement to sell aforementioned on the premise that he had been ready and willing to perform his part of agreement as the target was 18.08.2008 but the defendants did not come forward, thus, the suit was filed on 3.10.2008.

The defendants denied execution of the agreement to sell to be forged and fabricated, much less, readiness and willingness.

Since the parties were at variance, trial Court framed the following issues:-

- “1. Whether the defendant entered into agreement to sell dated 09.07.2008 with the plaintiff? OPP*
- 2. Whether plaintiff already ready and willing to perform his part of contract? OPD*
- 3. Whether plaintiff is entitled for specific performance of agreement to sell dated 09.07.2008 as prayed for? OPP*
- 4. Whether plaintiff is entitled for mandatory injunction as prayed for? OPP*
- 5. Whether plaintiff is entitled for permanent injunction as prayed for? OPP*
- 6. Whether plaintiff is entitled to alternative relief of recovery of ₹1,30,000/-, if so, at what rate at what rate of interest? OPP*
- 7. Relief.”*

Plaintiff in support of aforementioned pleadings examined himself as PW1, Rattan Lal and Sewal Kaur as PW2, Ram Pal and Gurdeep Kaur as PW3 whereas defendant No.1 stepped into witness box himself as DW1.

Mr. Arora, learned counsel appearing on behalf of the appellants submitted that witnesses of the agreement to sell were not consistent as one stated that it was written one and registered but in fact the same was typed and unregistered. The plaintiff in cross-examination admitted that he did not have sufficient funds, resulting into dismissal of the suit. The lower Appellate Court ignored the aforementioned facts, therefore, there is abdication and perversity.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no force and merit, for, defendants had not been able to controvert the existence of signatures on the agreement to sell. No sane person would remain silent in case he did not append signatures, probably afraid of surfacing of truth.

Mr. Arora to a specific query stated that in execution proceedings, respondent-plaintiff has deposited balance sale consideration of ₹2,65,000/-. The suit filed on 3.10.2008 itself proves readiness and willingness. Equipment of ready cash may not be a ground for declining the discretionary relief under Section 20 of the Specific Relief Act, in view of the ratio decidendi culled out by Hon'ble Supreme Court in *Azhar Sultana Vs. B. Rajamani and others 2009(2) RCR (Civil) 123.*

In view of such circumstances, I do not find any illegality and perversity in the judgment and decree rendered by the lower Appellate Court being the last court of fact and law, 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

January 29, 2019  
Pankaj\*

Whether Reasoned/Speaking Yes

Whether Reportable No