

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

RSA No.3987 of 2014 (O&M)

Date of decision: 04.02.2019

Ram Kumar and others

..... Appellants

Versus

Jaswant Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. C.B. Goel, Advocate
for the appellants.

Mr. Arihant Jain, Advocate and
Mr. Arun Jindal, Advocate
for respondents No.1 to 3.

None for respondent No.6.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Both the Courts have held that the decree for specific performance cannot be passed as the land agreed to be sold has neither been identified by khasra number/killla number nor exact area agreed to be sold has given, however, this Court has gone through the agreement to sell. The agreement to sell incorporates a strange condition which if translated would mean that apart from payment of Rs.2,00,000/- as earnest money, the payment of balance sale consideration shall be completed after sale of the property and 1/5th profit on sale of the property would be payable to Amrik Singh, one of the vendor out of three. It is further provided that if any plot

is sold before the target date, the payment would be payable to the seller.

There is no clause as to how the plaintiffs would pay the amount and get the sale deed executed. From the agreement to sell, it is apparent that the agreement was entered into with a view to further sell the property and share profits. Still further, the area which is agreed to be sold is approximately 7 kanals near Satsang Ghar. However, killa number/khewat number of the aforesaid land has not been given. The present suit has been filed for the land measuring 7 kanals and 4 marlas. In Khatoni No.293 and 294, defendants No.1 to 3 are owners of 3/4th share in land measuring 27 kanals and 3 marlas which approximately comes to 20 kanals. Thus, the Courts have rightly held that specific performance of such agreement to sell cannot be ordered.

In view thereof, there is no ground to interfere.

Appeal is dismissed.

04.02.2019

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No