

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 4466 of 2014 (O&M)

Date of decision : December 02, 2019

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Samma Singh

.....Appellant

Versus

Ajit Singh

.....Respondent

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Kewal Krishan, Advocate for
Mr. Premjit Kalia, Advocate for the appellant.

Mr. Malkeet Singh, Advocate for the respondent.

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RITU BAHRI, J.

The appellant-plaintiff Samma Singh has come up in the present regular second appeal against the judgment dated 15/09/2012 passed by the Civil Judge (Junior Division) Ajnala and against the judgment dated 14/03/2014 passed by the District Judge Amritsar, vide which the appeal against the judgment of the trial court was dismissed. Vide the trial court judgment, the suit filed by the plaintiff for possession by way of specific performance of agreement to sell dated 03/01/2005 against defendant Ajit Singh was dismissed.

Briefly stated, the claim of the plaintiff was that the defendant

agreed to sell his property measuring 1 Kanal out of 2 Kanal 15 Marlas bearing Khasra No. 28//23/1/1/1, Khatauni No. 20/46 as per Jamabandi for the year 2000-01 situated at Village Talwandi Nahar, Tehsil Ajnala District Amritsar at the rate of Rs. 20,000/- per marla and executed an agreement to sell dated 03/01/2005 in favour of the plaintiff and received a sum of Rs. 2 lacs as earnest money and date of execution of sale deed was fixed as 30/10/2005. It was further case of the plaintiff that on 30/10/2005, he remained present in the office of Sub-Registrar, Ajnala along with other expenses but the defendant did not turn up to perform his part of the contract. Hence the suit was filed.

Upon Notice, defendant appeared and filed written statement submitting therein that he never entered into any such agreement with the plaintiff to sell his land in question and the same has been forged and fabricated by the plaintiff in connivance with the marginal witnesses and deed writer. He denied having received any amount being earnest money at the time of execution of such agreement. It was further case of the defendant that he used to sell his agricultural produce to the plaintiff who was running business of commission agent along with his wife Gurmeet Kaur and nephew Rajbir Singh under the name and style of a new trading company and since defendant wanted to square up his account with plaintiff firm, as such, at that time, plaintiff got signature of defendant on some blank papers/stamp papers on the pretext of settling the accounts which were later on converted into agreement in question. The defendant never agreed to sell his land. It was further submitted therein that the defendant never agreed to execute and register the sale deed.

After hearing respective submissions of the counsel for the

parties and after going through the evidence on record, the trial court held that the plaintiff failed to prove on record that defendant entered into agreement dated 03/01/2005 with him. Since the execution of agreement to sell dated 03/01/2005 in favour of the plaintiff was not proved, therefore, plaintiff was not held entitled to the relief of possession by way of specific performance or to the relief of recovery. Accordingly, the suit filed by the plaintiff was dismissed. Feeling aggrieved, the plaintiff filed appeal before the lower appellate court.

It was observed by the lower appellate court that since it has been held that the agreement to sell in question was a forged and fabricated one, as such it could not be held that any consideration was passed on to the defendant at the time of its execution. It was further observed that the witnesses examined by the plaintiff were altogether discrepant about the nomination of currency notes casting doubt over the case of the plaintiff. As such, the findings recorded by the trial court on all the issues were held to be correct by the lower appellate court. Consequently, the judgment of the trial court was upheld. The appeal was found to be without any merit by the lower appellate court and the same was dismissed.

Heard counsel for the parties and gone through the records of the case. There is no illegality or infirmity in the judgments passed by the Courts below that warrant interference of this Court. Hence the present regular second appeal is hereby dismissed.

December 02, 2019

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No