

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

RSA No.5073 of 2014 (O&M)

Date of decision : 15.01.2019

Bijender Singh

...Appellant

Versus

Dalip Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhishek Yadav, Advocate for the appellant.

Mr. N.S. Shekhawat, Advocate with
Mr. Zorawar Singh Chauhan, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

CM No.11965-C of 2014

For the reasons stated in the application, which is duly supported by an affidavit, delay of 82 days in filing the present appeal is condoned.

Application is allowed.

Main case

Defendant-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below while decreeing the suit for possession by way of specific performance of the agreement to sell dated 20.09.2004.

The defendant contested the suit and pleaded that there was

only a loan transaction and his signatures were obtained on the pretext that a pronote and receipt is being executed. Both the Courts below after appreciation of the evidence have decreed the suit filed by the plaintiff finding that the defendant has failed to establish his defence.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below and the record.

In the present case, the agreement to sell dated 20.09.2004 is executed on a non-judicial stamp paper which was purchased for execution of the agreement to sell. The defendant-appellant has signed in fluent english whereas the agreement to sell is scribed in Hindi language. Both the pages of the agreement to sell are admittedly signed by the defendant-appellant. Thereafter, there is a further agreement dated 31.05.2005 Ex.PW3 through which time for execution and registration of the sale deed was extended to 31.08.2005 i.e. for a period of three months. In the aforesaid agreement, time was extended on account of inability of the defendant to execute and get the sale deed registered. The agreement dated 31.05.2005 is again runs into two pages and both have been signed by the defendant-appellant. Thereafter, there is another agreement dated 31.08.2005 in which it is again recorded that it is defendant who is unable to execute the sale deed and, therefore, the date is being extended. This agreement is also in continuation of first one and is again signed by defendant on both the pages. Under his signatures, the defendant has also put date with his own hands. Still further, it has come in evidence that the defendant had sold some land to the plaintiff and his brother on 04.03.2004. Further, it has come in

evidence that the defendant is Ex-Sarpanch of the village.

Keeping in view the aforesaid facts, the Courts below have rightly concluded that the transaction was not a loan transaction but the parties wanted to transfer the immovable property.

In view of the aforesaid, concurrent findings which are not shown to be either perverse or result of any substantive misreading or non-reading of evidence, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

15.01.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No