

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

**RSA No.477 of 2016(O&M)
Date of Decision.08.04.2019**

Patori

...Appellant

Vs

Rajender Singh

..Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jaideep Verma, Advocate
for the appellant.

-:-

AMIT RAWAL J. (ORAL)

The appellant-defendant has not been successful in defending the suit for specific performance of agreement to sell dated 23.04.2004 in respect of the suit land measuring 24 kanals agreed to sold for a total sale consideration of ₹6 lakhs by fixing 26.06.2005 as the date for execution and registration of the sale deed. Despite having sent the legal notice and request, defendant did not come forward, resulting into suit aforementioned.

Defendant opposed the suit, denied agreement to sell and receipt of the earnest money and stated to be forged and fabricated.

Plaintiff in support of the evidence examined himself and three other witnesses namely Sumer Singh, Bhan Singh and Randhir Singh and brought on record Ex.P1 to P19 whereas defendant examined eight witnesses and brought on record Ex.D1 to D25 and Mark A to Mark D.

Learned counsel for the appellant submitted that decree sought was only for symbolic possession but the fact of the matter is that plaintiff is none else but real nephew of the defendant. She was

old lady and it cannot be believed that she will travel to Hansi alone and obtain a heavy amount of ₹6 lakhs and returned alone. Plaintiff did not take any step to get the signatures and thumb impression examined from any expert, therefore, there was a strong suspicious circumstance, which has not been eradicated.

I am afraid aforementioned argument is not sustainable, for, the defendant admitted that plaintiff obtained thumb impression over the blank paper. Now question arises as to why she had appended signatures on the blank paper. No explanation has come forward in this regard. If at all witness testified to the fact that defendant entered into an agreement to sell and obtained consideration, the onus stood discharged on behalf of the plaintiff, which remained unrebutted.

The appeal is also accompanied by application seeking condonation of delay of 121 days in filing of the appeal and 51 days in refiling. The explanation lacks plausible reasons and bona fide.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, 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 both on the ground of delay as well as on merit.

(AMIT RAWAL)
JUDGE

April 08, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No