

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.211 of 2018 (O&M)
Date of Decision : 13.11.2019

Resham Singh

.....Appellant

Versus

Sarwan Singh @ Sarban Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Suresh Kumar Aneja, Advocate for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the appellant-plaintiff was dismissed by the trial Court vide judgment and decree dated 23.10.2015 and as even the appeal preferred against the said decree failed and was dismissed on 21.02.2017, he is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for possession by way of specific performance of the agreement to sell dated 11.06.2009, requiring the defendant to execute a registered sale deed in his favour qua the suit property measuring 1 kanal, being 180/720 share out of total land measuring 4 kanals, situated in the area of Zira, District Ferozepur. In the alternative, a decree for recovery of Rs.10,00,000/- (which includes the refund of earnest money of Rs.8,00,000/-) as damages and compensation for the breach of contract was also prayed for.

In brief, the case set out by the plaintiff was that parties to the *lis* had entered into an agreement to sell dated 11.06.2009, qua the suit property for a total sale consideration of Rs.10,00,000/-. Rs. 8,00,000/- were paid as earnest money. The possession of the suit land was delivered to the plaintiff at the time of the execution of the agreement itself. The sale deed was to be executed on 27.10.2009. Plaintiff had always been ready and willing to perform his part of the contract and remained present before the Office of Sub Registrar, Zira, on the appointed date. However, the defendant failed to turn up and execute the sale deed. In fact, on 20.10.2009, the defendant along with some unknown persons came to the spot and forcibly dispossessed the plaintiff and even threatened that he will dispose of the suit land. Thus, the suit.

In the written statement filed by the defendant he denied the execution of the agreement which was alleged to be illegal, null, void and without consideration. In fact, he pleaded that a case under Sections 326, 324, 323 read with Section 34 of IPC in FIR No.29 dated 04.05.1998, P.S. Mallanwala, was registered against him, his wife Balbir Kaur and Kashmir Singh. A compromise was effected between the parties in those proceedings on 11.06.2009, wherein plaintiff Resham Singh had acted as a mediator. Resham Singh who was present in Court obtained signatures of the defendant on certain blank papers, for, they were required to complete the documentation as regards the compromise arrived at between the parties. Subsequently, Resham Singh misused those blank papers signed by the defendant and fabricated the agreement dated 11.06.2009, in connivance

with the marginal witnesses, stamp vendor and the scribe, thus, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the Court concurrently concluded that from an analysis of all the three pages of the agreement it was apparent that it was typed subsequently, after the signatures of defendant Sarwan Singh had already been obtained. Likewise, perusal of page Nos.2 and 3 of the said agreement further crystalized that it was typed later as the space whereupon Resham Singh (plaintiff) had affixed his signatures was extremely narrow. It was not disputed either that the said agreement was not scribed or got typed from a regular deed writer. Concededly, plaintiff Resham Singh had moved an application along with Sarwan Singh and Jeet Singh on 10.09.2009, to put up a file regarding compromise in the criminal matter. Significantly, plaintiff Resham Singh admitted his signatures on the same. Further, copy of the affidavit revealed that Resham Singh had got certain signed blank papers from both the parties in the criminal litigation pending between Sarwan Singh etc. and Jeet Singh etc.. The defendant as also the other witnesses examined by him duly proved the presence of Resham Singh and others in criminal proceedings, and also that certain papers were got signed by the plaintiff from defendant Sarwan Singh. It was also proved that even the stamp papers were purchased by Resham Singh plaintiff. Not just that, none of the attesting witnesses of the agreement namely Jaswinder Singh and Boota Singh was either the Lambardar or Sarpanch of Zira. Rather, both of those witnesses were from a different village. Thus, they knew that

they had signed the agreement that was got prepared on a blank stamp paper signed by the defendant Sarwan Singh. Likewise, plaintiff also failed to prove the sources from which he arranged Rs. 8,00,000/- that were alleged to have been paid as earnest money, and that too within one day after they had appeared in Court in the criminal proceedings and the matter was compromised. Thus, an analysis of the material and evidence on record would lead to an irresistible conclusion that no such agreement was executed by the defendant and the same was a forged document. That being so, the plaintiff was not even entitled to an alternate relief. I am also reminded to point out at this juncture that even defendant Sarwan Singh had filed a **Suit No.95-1 of 28.10.2009**, against plaintiff Resham Singh (**Sarwan Singh @ Sarban Singh Vs. Resham Singh and others**), wherein he had prayed for a declaration that agreement in question dated 11.06.2009, was a forged and fabricated document. The said suit was decreed by the trial Court (the same Presiding Officer as in this case) on 23.10.2015 and the appeal filed against the said decree was also dismissed on 21.02.2017, by the same Court, as in the present appeal. Further, the Regular Second Appeal filed by the plaintiff i.e. **RSA No. 207 of 2018 (Resham Singh Vs. Sarwan Singh @ Sarban Singh and others)** before this Court has also been dismissed by this Court, vide judgment and order of an even date, affirming the findings that defendant never executed the agreement, dated 11.06.2009, and the same was a fabricated document.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at

were either contrary to the record or suffered from any material illegality. Thus, no ground is made out to interfere with the concurrent findings recorded by both the Courts below. The appeal being devoid of merit is accordingly dismissed.

13.11.2019
Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No