

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

RSA No.317 of 2017 (O&M)

Date of decision:24.05.2019

Balwan Singh Raghav

... Appellant

Vs.

Dalip Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Deepender Ahlawat, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.716-C of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 16 days in filing the appeal is condoned.

C.M. stands allowed.

RSA No.317 of 2017 (O&M)

The appellant-defendant is in regular second appeal against the decretal of the suit for specific performance of the agreement to sell dated 10.01.2005 agreed to be sold for a total sale consideration of Rs.2,00,000/- against the payment of Rs.1,75,000/- as earnest money stipulating the target date as 07.04.2005.

The plaintiff alleged that defendant extended the date to 06.10.2005 which was with mutual consent and then to 06.04.2006 and 05.10.2006. When approached, the defendant did not come forward,

resulting into sending of legal notice dated 09.11.2006 and the suit was filed on 12.09.2009.

The appellant-defendant after raising numerous preliminary objections denied to have entered into agreement to sell.

The respondent-plaintiff in support of the pleadings examined PW1-Jai Parkash Naksha Navis, who proved the site plan, Ex.PW1/A, examined himself as PW2, PW3-Malik Ram, Advocate who drafted the legal notice Ex.P7, Ram Avtar Saini as PW6, V.B.Kashyap as PW7, who tendered the affidavit Ex.PW7/A, whereas, appellant-defendant examined himself and tendered into evidence affidavit Ex.DW1/A.

Mr. Deepender Ahlawat, learned counsel appearing on behalf of the appellant-defendant submitted that readiness and willingness on behalf of the respondent-plaintiff was conspicuously wanting. No documents in this regard were placed on record. Even if the agreement to sell was denied, extensions are also testimony of the same.

I am afraid the aforementioned argument is not sustainable for the simple reason that if a person who has denied the agreement to sell cannot be permitted to take the plea of readiness and willingness particularly when extensions and earnest money had been proved on record.

As an upshot of my findings, there is no illegality and perversity in the concurrent findings of fact and law to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

May 24, 2019
savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No