

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.3278 of 2017 (O&M)

Date of Decision: February 11, 2019

Manjit Kaur

...Appellant

Versus

Jagdish Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

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

AMIT RAWAL, J. (Oral)

Appellant-plaintiff has not been successful in claiming discretionary relief under Section 20 of the Specific Relief Act in a suit for specific performance of the agreement to sell dated 13.09.2001 filed on 15.06.2012.

It was asserted that the respondent-defendant had agreed to sell parcel of the land, i.e., subject matter of the present case, for a total sale consideration of ₹ 3,25,000/- against the receipt of ₹ 1,60,000/- as earnest money and received another sum of ₹ 1,00,000/- on 20.12.2001. Plaintiff had always been ready and willing to perform her part of the contract. She approached the office of Sub Registrar on the stipulated date, i.e., 12.09.2002, but the defendant did not come forward. Even actual possession was also handed over. Defendant was served with a legal notice dated 07.05.2012.

Defendant admitted the agreement to sell and stated that there was a stipulation qua alienation for a period of twenty years and, therefore, the agreement to sell could not have been honoured within the

aforementioned period.

Mr. Suresh Kumar Aneja, learned counsel for the appellant-plaintiff submitted that the respondent-defendant relied upon the embargo and, therefore, the time was not the essence as and when the breach was alleged. The suit was filed in 2012 which is permissible as per Article 54 of the Limitation Act, particularly when the agreement to sell had not been honoured.

I have heard the learned counsel for the appellant-plaintiff, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel.

During the course of hearing, copy of the agreement to sell Ex.P2 was handed over which did not envisage any stipulation to bring the case within the realm of parameters of Article 54 of the Limitation Act that time being not essence. Rather, it specified the stipulated date. In such circumstances, the limitation could not have been arrested but continued to run. The explanation qua delay in filing of the suit on 15.06.2012, the stipulated date being 12.09.2002, was conspicuously wanting.

I do not subscribe to the argument of the learned counsel for the appellant-plaintiff to form a different opinion than the one arrived. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

February 11, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No