

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

**RSA No.3358 of 2017 (O&M)
Date of Decision.22.05.2019**

Surjan Singh (since deceased) through LRs ...Appellant

Vs

Gurdeep Singh ..Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gurminder Singh Phull, Advocate for
Mr. B.S. Bhalla, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-defendant has not been able to defend the suit for possession by way of specific performance in respect of agreement to sell dated 11.12.2006, agreed to be sold for total sale consideration of ₹4,82,500/- for land measuring 9 kanals 13 marlas. It was alleged that target date was fixed as 31.05.2008, which was a holiday and the next day being Sunday, plaintiff again visited office of Sub Registrar on 02.06.2008 but defendant did not come present, thus, suit was filed on 19.07.2008.

Defendant contested the suit and denied the agreement to sell. There was no evidence of receipt of consideration and therefore, it was not subsisting and valid agreement.

Both the parties led extensive evidence.

The plaintiff examined four witnesses including the attesting witnesses Satish Kumar as PW2, Mandeep Kumar, Registration Clerk as PW3 and document writer Surjeet Singh Soi as PW4 whereas defendant examined himself as DW1 and closed the

evidence.

Learned counsel appearing for the appellant submitted that once Surjan Singh died on 05.03.2008 i.e. before the target date, the agreement had become inexecutable. There was complete denial of the agreement. Plaintiff miserably failed to prove its existence, execution and receipt of earnest money of ₹2 lakhs, therefore, discretionary relief, in such circumstances, ought not to have been granted.

I am afraid the aforementioned argument is not sustainable, as the appellant-defendant had not been able to belie the thumb impression/signature on the agreement to sell as well as shatter the credibility of the witnesses to prove intention of the parties to sell and purchase the land and payment of earnest money, therefore, the terms and conditions of the agreement had a binding force upon the legal representatives of the executant.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact, 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.

(AMIT RAWAL)
JUDGE

May 22, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No