

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

**RSA No.787 of 2014 (O&M)
Date of Decision.09.05.2019**

Gurmail Singh

...Appellant

Vs

Jagan Nath Jain DAV Public School

..Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ravinder Singh, Advocate
for the appellant.

Mr. B.S. Sidhu, Advocate
for the respondent.

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AMIT RAWAL J. (ORAL)

The present regular second appeal is directed at the instance of the appellant-defendant against the impugned judgments and decrees whereby suit of the respondent-plaintiff for specific performance of agreement to sell dated 19.06.2003 has been decreed.

The respondent-plaintiff alleged that the appellant-defendant had entered into agreement to sell aforementioned at the rate of ₹84,000/- per kanal in respect of land measuring 5 ½ kanals after receipt of earnest money of ₹1 lakh. Possession was delivered but on the target date, defendant did not come forward. During the subsistence of the agreement, appellant-defendant instituted the suit bearing No.406-1 dated 08.10.2004 for injunction and therefore, the suit was filed on 28.07.2005 registered on 01.08.2005. It was attested by Harmesh Garg, Advocate.

Defendant denied execution of the agreement to sell and stated that some Congress MLA had approached him for sale of land

for 1 kanal but resulted into fraud upon him as agreement was executed in respect of 5 ½ kanals. He belonged to Army and had only land kept for residential purposes.

Both the parties led executive evidence.

Learned counsel appearing on behalf of the appellant submitted that agreement to sell was neither registered nor on any stamp paper and only attested by one witness whereas the requirement of law is of two witnesses. It was alleged to have been entered with DAV Public School but the suit has been filed by Jagan Nath Jain DAV Public School, Gidderbaha, which was not competent authority. Readiness and willingness is not there as there was a conspicuous silence from target date i.e. 30.09.2003 till 28.07.2005.

Mr. Sidhu representing the respondent submitted that the concurrent finding of fact and law cannot be interfered with unless and until there is gross illegality and perversity. As per the aforementioned judgments and decrees, entire amount has been deposited in the Court.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit, for, defendant has not been able to deny his signatures on agreement signed in Punjabi. There was submission that contents of the agreement were not read over and explained to him. If at all, there was some fraud played upon him, he would have taken possible steps belonging to a disciplined service protecting his right and interest. There would have been force with regard to readiness and willingness but concededly defendant filed civil suit for injunction on 08.10.2004

which was withdrawn after institution of the present suit for specific performance. All these factors weighed in the mind of the Courts below while decreeing the suit.

In view of aforementioned facts, the concurrent finding of fact and law cannot be said to be suffering from illegality and perversity, 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 09, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No