

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4593 of 2017 (O&M)
Date of Decision: April 03, 2019

Ranjit Singh & another

...Appellants

Versus

Avtar Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Sunil Kumar, Advocate,
for the appellants.

AMIT RAWAL, J. (Oral)

The present Regular Second Appeal is at the instance of the appellant-defendant Nos.1 and 2, who had not been successful in a suit filed by the respondent-plaintiffs for declaration and possession, which was decreed by the trial Court and affirmed in appeal.

It was alleged that appellant-defendant Nos.1 and 2 had entered into an agreement to sell in respect of the land measuring 28 kanals and executed the sale deed on 06.09.2006 for a sum of ₹ 24,50,000/- registered in the office of Sub Registrar on 07.09.2006. The terms and conditions of the agreement envisage that defendant No.1 had undertaken to complete the short fall in case of any defect in the title. As per the sale deed, defendant No.1 sold his entire share, but defendant No.2 sold his share in the total land which was 7 kanals 16 marlas. Both the defendants sold 28 kanals, but in

the sale deed, Kh/Kh. No.8/17, Khasra No.3//24 (6-9) were mentioned, which had already been exchanged by them with defendant No.3. The mutation was sanctioned as per the contents of the sale deed, but not of the entire land. In such circumstances, cause of action accrued.

Defendants opposed the suit and raised numerous objections. Defendant No.3 did not file the written statement.

Plaintiffs examined four witnesses, whereas defendants examined only one witness. The revenue record established the undertaking of completing the short fall.

Mr. Sunil Kumar, learned counsel for the appellant-defendants submitted that defendant Nos.1 and 2 had not been owners and had already exchanged the land with defendant No.3 and, therefore, the decree entitling them to execute the sale deed of 4 kanals 4 marlas from defendant No.2 cannot be executed in letter and spirit.

I am afraid, the aforementioned argument would not be sustainable as the suit simpliciter was as per the provisions of Section 26 of the Specific Relief Act envisaging right to the effected party of correction in case of fraud or mistake. No evidence has been brought on record whether the exchange was done after or prior to the sale deed. It remained a mystery. The undertaking allegedly recorded in the order of this Court dated 14.03.2018 has also not been complied with for almost one year. An attempt was made to seek adjournments on the premise that the parties are not in contact. Even the aforementioned request cannot be acceded to, for, appellants are bound by the undertaking of the agreement.

For the reasons mentioned above, the concurrent findings cannot be said to be suffering from illegality or perversity. No ground for

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interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

April 03, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No