

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

**RSA No.6325 of 2017 (O&M)
Date of Decision.05.02.2019**

Gurinder Singh

...Appellant

Vs

Dhir Singh (deceased through LRs) and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.S. Bhatti, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in seeking discretionary relief for specific performance of agreement to sell dated 15.03.2009 allegedly executed by defendants in his favour in respect of land measuring 56 kanals out of 87 kanals 9 marlas, agreed to be sold @₹10,20,000/- per acre against the payment of earnest money of ₹10,50,000/-. It was alleged that agreement to sell was executed by defendant No.3, power of attorney holder of defendants No.1 and 2.

Learned counsel appearing on behalf of the appellant-plaintiff submitted that both the attesting witnesses have been examined, who proved payment of earnest money, much less, execution of the agreement to sell but erroneously non-suited on the premise that defendants No.1 and 2, owners of the property had already died but information and intimation in this regard was not given to defendant No.1, which was further not passed on to the plaintiff. There was no *mens rea* on part of the plaintiff.

I am afraid aforementioned argument is not sustainable,

as on the date of execution of agreement to sell by the attorney-defendant No.3, defendants No.1 and 2 had already died, thus, agreement was without authority. In such circumstances, there was no contract and rightly so, specific performance was not granted.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, 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

February 05, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No