

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.6329 of 2017 (O&M)

Date of Decision: March 05, 2019

Dhan Singh

...Appellant

Versus

Jiya Ram & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Vikas Kumar, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-plaintiff has not been successful in claiming possession on the basis of the title.

It was alleged that plaintiff had entered into an agreement to sell dated 21.08.2002 with the defendant for sale consideration of ₹12,000/-. The entire sale consideration was paid to the defendant and possession was delivered on 21.08.2002. It was alleged that the plaintiff instituted the suit for injunction on 02.12.2006 which was withdrawn on 24.03.2009. Defendants raised an illegal wall towards the gate of plaintiff's house and even had forcibly dispossessed, therefore, sought the possession.

Defendant No.2 contested the suit and raised the preliminary objection qua maintainability of the suit and denied the alleged dispossession.

Plaintiff examined three witnesses and tendered into evidence documents Ex.P1 to Ex.P3/1, whereas the defendants examined DW-1 and

tendered into evidence Ex.D1 to Ex.D4.

The sole point involved is whether the agreement to sell would confer the title and entitle the plaintiff to protect the possession. The best possible remedy for the plaintiff was to seek injunction for protection of the possession on preponderance of the evidence under Section 53-A of the Transfer of Property Act, which has already been withdrawn after three years of filing of the suit. In such circumstances, the courts below have no other occasion but to dismiss the suit.

For the reasons mentioned above, the argument of the learned counsel for the appellant is not able to bring the case within the realm of perversity or illegality. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

March 05, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No