

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.6348 of 2017 (O&M)

Date of Decision: February 14, 2019

Roop Singh

...Appellant

Versus

Jalandhar Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Ashish Gupta, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.16509-C of 2017

For the reasons mentioned in the application, which is supported by an affidavit, delay of 171 days in re-filing the appeal is condoned.

CM stands disposed of.

RSA No.6348 of 2017

Appellant-defendant has not been successful in defending the suit for specific performance of the agreement to sell dated 22.06.2012 in respect of land measuring 5 kanals 0 marla, agreed to be sold for a total sale consideration of ₹ 3,93,750/- against payment of ₹ 3,05,000/- as earnest money by fixing 30.07.2012 as stipulated date.

Plaintiff alleged that the defendant did not appear before the Sub Registrar on the stipulated date and by marking his presence, filed the suit on 01.09.2012.

Defendant opposed the suit and stated the alleged agreement to

be a security as he had taken the loan. Blank papers have been used as

agreement. In fact, there was no intention to part with the land.

Plaintiff, in support of the aforementioned pleadings, examined PW-1 Tarsem Kumar Deed Writer, PW-2 Kuldeep Singh Deed Writer and himself stepped into the witness box as PW-3 and also tendered into evidence jamabandies Ex.P6 and Ex.P7, agreement Ex.P1, affidavit Ex.P3, notice Ex.P4, acknowledgment Ex.P5 and sale deed Mark A. On the other hand, defendant appeared as DW-1 and did not tender any documents.

Mr. Ashish Gupta, learned counsel representing the appellant-defendant submitted that there was no intention on behalf of the defendant to part with the land. It was a friendly loan which was repaid. Plaintiff has misused the blank papers by converting the same into agreement to sell as the market value of the land, at the relevant point of time, was much higher than the one recorded.

I am afraid, the aforementioned argument is not sustainable as the pleading qua the aforementioned argument has not been proved either through direct or cogent evidence except the self-serving statement of the defendant. If at all, it was a loan transaction, some witness could have been there as well as proof of return of the amount along with some interest. agreement, payment of earnest money and his presence. The readiness and willingness has also been reflected as within two months time after the stipulated date, suit was filed. All these factors have been examined in extenso by the courts below.

For the reasons aforementioned, the argument of the learned counsel 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.

February 14, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No