

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

**RSA No.4924-2010 (O&M)
Date of Order:17.02.2020**

Naresh Kumar

..Appellant

Versus

Sawant Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Gandhi, Advocate,
for the appellant.

Mr. Deepak Sethi, Advocate, for
Mr. N.S.Shekhawat, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

The plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below while dismissing the suit filed by the plaintiff for specific performance of the agreement to sell dated 18.06.1998.

Both the courts have concurrently found that one of the marginal witness of the agreement to sell has history of creating forged documents and has also been convicted by the criminal court. The court further found that the plaintiff is not proved to be ready and willing to perform his part of the contract as he was not present in the office of Sub-registrar at the pre-determined date as per the agreement to sell. Still further both the courts have found that no meaningful evidence has been brought on record to prove continuous readiness and willingness of the plaintiff.

Learned counsel for the plaintiff submitted that the courts have erred in examining the agreement to sell as a testamentary disposition.

This court has considered the submission.

The relief of specific performance of the agreement to sell is discretionary as per Section 20 of the Specific Relief Act which can be ordered only if the court is satisfied that the agreement to sell is genuine and it is for the sale of the property. In the present case, out of total sale consideration of Rs.70,000/-, Rs.60,000/- was alleged to have been paid as earnest money. However, the possession of the property agreed to be sold was not transferred to the plaintiff. As per the agreement to sell, the sale deed was to be executed and registered within one year. Plaintiff did not visit the office of Sub-Registrar to prove his readiness and willingness. The suit was filed on 05.09.2000. There is no reason as to why the plaintiff waited for more than a year to file suit.

Hence, there is no ground to interfere.

Dismissed.

February 17, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No