

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

RSA-3540-2011 (O&M)

Date of decision : 24.02.2020

Balaka Singh

...Appellant

Versus

Baldev Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S. Dadwal, Advocate for the appellant.

Mr. Raman Sharma, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant has filed the present Regular Second Appeal against the judgment passed by the learned First Appellate Court accepting the appeal filed by the defendant and reversing the judgment and decree passed by the trial Court.

The result is that the suit filed by the plaintiff for possession by way of specific performance of the agreement to sell stands dismissed. As per the agreement to sell, the parties had agreed to get the sale deed registered and executed on 07.05.2005. That was the crucial date on which the plaintiff was required to prove his readiness and willingness. He was also required to aver and prove that he was always ready and

willing as provided in Section 16(c) of the Specific Relief Act.

Learned First Appellate Court, after noticing that on 07.05.2005, the plaintiff has failed to show his readiness and willingness as he never visited the office of the Sub-Registrar alongwith the balance sale consideration, reversed the decree.

Learned counsel for the appellant has submitted that the defendant has also taken an incorrect stand and the defendant did not contest the suit with clean hands. Hence, he submitted that the learned First Appellate Court has erred in reversing the judgment particularly when the execution of the agreement to sell as also payment of earnest money, is proved.

This Court has considered the submissions. However, find no substance therein. The suit for specific performance of the agreement to sell can only be decreed once if the plaintiff files the suit with blemishless conduct. He has to aver and prove that he is always ready and willing to perform his part of the contract. In the present case, as per the agreement to sell, the sale deed was to be executed and registered on 07.05.2005. For registration of the sale deed, one has to visit the office of Sub-Registrar. The plaintiff has failed to prove that he visited the office of Sub-Registrar for execution and registration of the sale deed. Still further, the agreement to sell is with respect to the land measuring 32 kanals. The description of the land measuring 24 kanals 14 marlas was only recited in the agreement to sell. However, there is no evidence that the defendant is owner of the remaining land. That also creates a doubt on the genuineness

of the agreement to sell.

The conduct of the defendant will not be of much relevance. It is the plaintiff who has to stand on his own legs. Once the plaintiff has failed to prove his case, this Court does not find any good ground to interfere with the judgment of the learned First Appellate Court.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

24.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No