

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

**RSA No.2455 of 2013 (O&M)
Date of Order:12.02.2020**

Hari Kishan and others

..Appellants

Versus

Khemi Bai and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jangvir Singh Hooda, Advocate
for the appellants.

Mr. A.K.Goel, Advocate, for respondents no.1 to 4.

Mr. Amit Jain, Advocate, for respondent no.10.

ANIL KSHETARPAL, J.

Defendants-appellants are in the regular second appeal against the judgment passed by learned first appellate court, reversing the judgment and decree passed by the learned trial court, resulting in dismissal of a suit filed by the plaintiffs for specific performance of the agreement to sell dated 24.06.1991 along with prayer for declaration and permanent injunction.

Plaintiffs filed a suit referred to above on 15.06.2004 seeking specific performance of the agreement to sell dated 24.06.1991. It is the pleaded cases of the plaintiffs that the target date for execution and registration of the sale deed was fixed by the parties as 20.11.1991.

Learned first appellate court while noticing that the suit has been filed after a period of 13 years, dismissed their suit. The learned first appellate court further found that the plaintiffs failed to prove their

readiness and willingness.

This court has heard learned counsels for the parties at length and with their able assistance gone through the judgment and decrees and the record.

Learned counsel for the appellants submitted that as per the case of the defendants, after execution of the agreement to sell dated 24.06.1991, another agreement to sell was executed in favour of Ram Sarup (father of the plaintiffs). He further submitted that in the aforesaid agreement to sell dated 20.11.1991, it was noticed that because of the pendency of a civil suit as well as a criminal case, the time for execution and registration of the sale deed was extended. He, hence submitted that the first appellate court has erred in accepting the appeal.

On the other hand, learned counsel for the respondents submits that the plaintiffs have sought specific performance of the agreement to sell dated 24.06.1991 and not specific performance of the agreement to sell dated 20.11.1991. He further submitted that there was no injunction granted against the defendants from alienating the property.

This court has considered the submissions.

It is undisputed that the suit for specific performance has been filed with respect to agreement to sell dated 24.06.1991 in which it is recited that the parties would execute the sale deed on 20.11.1991. Plaintiffs have failed to produce evidence that there was any injunction against the defendants from alienating the property. Further, plaintiffs have failed to produce evidence to prove that when the previous suit came to be decided and what should be the reckoning date for determining the limitation. The judgment passed in the previous suit filed by defendants

no.1 to 5 has not been produced. Still further, plaintiffs have failed to prove that they were always ready and willing to perform their part of the contract. It is not also the case of the plaintiffs that they have any dispute with their father.

In view thereof, there is no ground to interfere.

Dismissed.

February 12, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No