

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-12 of 2018 (O&M)

Date of decision: 16.01.2020

Raps Security Private Limited

... Appellant

versus

Mitha Lal

... Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. M.S. Randhawa, Advocate,
for the appellant.

ARUN MONGA, J.

1. The appellant-plaintiff is aggrieved of the judgments dated 04.02.2013 and 28.03.2017 passed by trial Court as well as first Appellate Court respectively, by virtue of which instead of passing a decree for specific performance of agreement dated 13.08.2007, the defendant has been asked to refund the amount of Rs.2,000,00/-, received as earnest money from the plaintiff, along with interest @ 12% per annum from the date of execution of agreement till actual realization of the amount.

2. The grievance of the appellant is that, once both the Courts below have found that there was due execution of the agreement to sell by defendant in favour of plaintiff, the Courts below erred in not directing the defendant to perform his part of the contract under the agreement by executing the sale-deed in favour of the plaintiff.

3. I have heard learned counsel for the appellant and have gone through the paper-book carefully.

4. A perusal of record would show that on the basis of evidence led by the parties, both the Courts below found that the agreement was

executed by the defendant. However, it has come on record that out of total sale consideration of Rs.3,000,00/-, the plaintiff had paid substantial amount of Rs.2,000,00/- at the time of execution of agreement to sell on 13.08.2007, but the date for execution of the sale-deed was fixed after one year i.e. on 13.08.2008. The plaintiff claimed that he was present in the office of Sub Registrar, Narnaul on the date of sale-deed i.e. 13.08.2008, but strangely he did not get his presence marked there and only sworn an affidavit(Ex.PW4/B) before the Notary Public. It has come on record that there was sale transaction of a Auto between the son of the defendant and the plaintiff, a Finance company. Taking into account these circumstance, in my opinion both the Courts below were justified in holding that in fact the agreement was prepared only for the security purposes and not as a transaction to sell the land and the defendant was rightly directed to return the amount of Rs.2,000,00/- alongwith interest.

5. There seems no perversity or illegality in the concurrent findings of facts returned by the Courts below by appreciation of evidence. No interference is called for to disturb the concurrent findings of facts recorded by the Courts below.

6. Furthermore, neither any question of law much less substantial question of law, which is *sine qua non* for entertaining second appeal before this Court is involved in present appeal, so as to exercise appellate jurisdiction under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

7. In view of my discussion above and the reasons recorded therein, this appeal is dismissed being bereft of any merit. Resultantly, both the impugned judgments and decrees passed by learned Courts below are

upheld.

- 8. Pending applications stand disposed of.
- 9. No order as to costs.

(ARUN MONGA)
JUDGE

January 20, 2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No