

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

RSA-4936-2018 (O&M)
Date of decision : 15.01.2020

Sarup Singh and another

...Appellants

Versus

Nazar Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajbir Singh, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the Regular Second Appeal against the judgment passed by the learned First Appellate Court ordering refund of the amount paid by the plaintiff-respondent to the defendants under the agreement to sell dated 13.07.2011 and subsequent writing dated 15.11.2011.

The plaintiff had filed a suit for possession by way of specific performance of the agreement to sell dated 13.07.2011 and writing dated 15.11.2011. The trial Court dismissed the suit. However, the First Appellate Court modified the decree passed by the trial Court. Appellate Court ordered that the plaintiff is not entitled to decree for possession by way of specific performance of the agreement to sell, however, entitled to refund of the amount paid.

While recording this finding, the Court has held that the

agreement to sell and payment of the amount on two occasions is proved. The First Appellate Court has further held that since the plaintiff was to pay balance amount of ₹1,00,000/-, out of total agreed sale consideration of ₹4,05,000/-, therefore, it would not be appropriate to hold that the plaintiff was not ready and willing. It has also come on record that defendant No.1 and 2 have already sold the property to defendant No.3. Thus, defendant No.1 and 2 have not suffered any loss or damages on account of the alleged agreement to sell.

Keeping in view the aforesaid facts, no ground to interfere with the judgment passed by the learned First Appellate Court is made out.

Accordingly, the present appeal is dismissed.

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

15.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No