

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Through video conferencing)

RSA-1525-2020 (O&M)
Date of Decision:- 15.03.2021

Avtar Singh (deceased) through LRs.

... Appellants

Versus

Arjan Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Baldev Singh Sidhu, Advocate,
for the appellants.

SUDHIR MITTAL, J. (Oral)

Avtar Singh s/o Teja Singh through his legal representatives is in second appeal preferred against judgment and decree dated 12.01.2020 passed by the learned Additional District Judge, Tarn Taran, whereby the appeal preferred against judgment and decree dated 12.01.2018 passed by the learned Additional Civil Judge (Sr. Division) Khadoor Sahib, has been dismissed.

The respondent is the plaintiff. He had filed a suit for possession by way of specific performance of agreement to sell dated 13.06.2013 whereby, Avtar Singh s/o Teja Singh had allegedly agreed to sell half share out of joint land measuring 48 kanals @ Rs.16,15,000/- per acre. In the alternative, recovery of Rs.53,03,200/- was sought with interest @ 12% per annum along with *pendente lite* and future interest till date of realization. Consequential relief of permanent injunction was also sought. In defence, the agreement to sell dated 13.06.2013 has been denied. It has been averred that the said document is a bogus document created with the

intention to usurp the land of the defendant-appellant. It has been further averred that plaintiff and one Palwinder were partners in the business of commission agent and the defendant used to sell his seasonal crops to the plaintiff. In June, 2013, a request for loan of Rs.6,00,000/- was made to the plaintiff, who advised the defendant to seek a loan from the bank and offered to help him in the matter. Consequently, the defendant signed some blank papers, stamp papers and other documents and also gave 5 blank cheques. These blank cheques were misused for withdrawing amounts from the account of the defendant. Nothing was received in the shape of earnest money or part payment. As referred to hereinabove, the suit was decreed and appeal was dismissed.

Learned counsel for the appellants has argued that the loan amount disbursed by the bank was withdrawn by the plaintiff. There is also evidence to show that the blank cheques dishonestly retained by the plaintiff were used for withdrawal of the earnest money and part payment. All this would show that nothing was ever paid to the defendant and that the agreement to sell was a forged and fabricated document. The Courts below have fallen in error in not appreciating the evidence in this regard.

Para No. 13 of the judgment of the trial court is being extracted below:-

“13. The defendant Avtar Singh has stated in his cross examination that the marginal witness Palwinder Singh in convenience with plaintiff Arjan Singh wants to usurp his suit property. But he remained fail to prove that the said Palwinder Singh was having any relations with the plaintiff Arjan Singh. The defendant also failed to prove that the plaintiff was having any joint business with Palwinder Singh as Commission agent. He has admitted the fact that he has not proved the partnership of commission agents between Palwinder Singh and plaintiff Arjan Singh. He never knew the plaintiff Arjan Singh before

the said agreement to sell. When a person is not known to him before the agreement to sell, it is difficult to believe that he ever tried to cheat the defendant. The plaintiff has proved the payment made by him to the defendant in his Bank Account. He has not mentioned the facts in his written statement that Arjan Singh plaintiff and Palwinder Singh were partners in the commission agents business and they tried to grab his suit property. He has also admitted the fact that he was having no any money transaction with the plaintiff before the said agreeemnt. He never took any loan from the plaintiff Arjan Singh. Arjan singh never help him in taking a loan from the bank. The plaintiff never paid any loan to him. He has admitted that the plaintiff does not help him in taking any loan from bank. It is establishes the fact that plaintiff has paid the amount to purchase the suit property and never obtain his signatures on a blank papers. He never moved an application before any police official or any higher authorities regarding the said facts. The defendant never give any cheque or cheque book bearing his signatures to the plaintiff at any point of time.”

The above extract shows that the defendant admitted in his cross-examination that he never knew the plaintiff before execution of the agreement to sell and that he was not having any money transactions with him before execution of the said agreement. He has also admitted that he never took any loan from the plaintiff and that the plaintiff never helped him to take a loan from the bank.

The aforementioned admission demolishes the case of the defendant-appellants that Avtar Singh s/o Teja Singh was the victim of fraud. The agreement to sell has been duly proved and so has the part payment. There is thus, no error in the judgments of the Courts below.

The appeal has no merit and is accordingly, dismissed.

(SUDHIR MITTAL)
JUDGE

15.03.2021
Neelam

Whether speaking /reasoned

Yes/No

Whether Reportable

Yes/No