

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

120

**CR No. 1061 of 2020 (O&M)
Date of decision: 16.08.2022**

Harjinder Kaur

...Petitioner

Versus

Sham Sunder and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ajay Bajaj, Advocate for
Mr. G. L. Bajaj, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 11.07.2019, passed by the trial Court in case titled as ***Harjinder Kaur vs. Sham Sunder and others.***

Brief facts of the case are that the petitioner/plaintiff has filed a suit praying for decree of declaration to the effect that sale deed dated 03.12.2018, executed by the petitioner in favour of respondent Nos. 3 and 4 qua land measuring 24 Kanals, is illegal, null and void, without consideration and is a result of fraud committed by the defendants and in alternative for a decree of recovery of Rs. 31,13,000/- as remaining sale consideration, which was not paid by the defendants.

It is the case of the petitioner that respondent Nos. 1 and 2 entered into an agreement for purchase of 44 Kanals 09 Marlas of land at the rate of Rs. 18,50,000/- per acre, as per agreement dated 28.09.2018 and the sale deed was executed qua 24 Kanals of land on 10.12.2018 and for the

remaining land, the sale deed was to be executed 10.05.2019 on receiving remaining sale consideration from respondent Nos. 1 and 2, however, the original agreement to sell was not produced by respondent Nos. 1 and 2 and, therefore, an application was filed before the trial Court under Order 11 Rules 14 and 15 read with Section 151 CPC for directing the defendants to produce the original agreement to sell.

In reply to the said application, the counsel for the defendants made a statement that the original agreement to sell is in the court file in a suit for specific performance filed by the defendants (plaintiffs in that suit), which is between the same parties and is fixed before the same Court. Accordingly, the trial Court disposed of the said application by passing the following order:

“Today counsel for the plaintiff made statement that in reply to application for production of original agreement to sell, it is stated that the original agreement to sell is in the court file in a suit for specific performance pending in this Hon'ble Court between the same parties and is fixed for 23.07.2019. In view of above fact, application for production of original agreement to sell is disposed off. Now to come up on 23.07.2019 i.e. date fixed in suit for specific performance.”

The petitioner/plaintiff has assailed the aforesaid order by way of filing the present petition.

It is worth noticing that this petition is being adjourned since 2020 and the only contention of the petitioner is that the original agreement to sell is not produced by respondent Nos. 1 and 2, in whose favour, the agreement to sell was executed by the petitioner/plaintiff, whereas the stand of respondent Nos. 1 and 2/defendants, in the present suit, is that they have

already filed a suit for specific performance with regard to remaining land and the original agreement to sell is produced in the said suit and both the suits are between the same parties and are pending before the same Court.

Accordingly, finding no merit in the present petition, the same is dismissed, as it will be open for the petitioner herein to summon the record of the said case as and when the same is required for recording of the evidence of the petitioner/plaintiff.

16.08.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No