

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 413 of 2022 (O&M)

Date of Decision: 24.02.2022

Nirmal Singh

... Appellant(s)

Versus

Mukhwinder Singh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Ms. Himani Kapila, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The appellant is the plaintiff in a suit for grant of possession by way of specific performance of the agreement to sell dated 04.11.2010. The First Appellate Court, while partially accepting the appeal, has passed a decree for recovery of ₹ 4,00,000/-. It has come in evidence that the stamp paper, for the alleged agreement to sell, was got issued only on 22.06.2012, whereas the agreement to sell has been ante dated as 04.11.2010. There is no explanation as to how an agreement to sell could be executed on 04.11.210, when the stamp paper on which the agreement to sell is executed, was purchased after a period of 1 year & 9 months from the alleged date of agreement to sell.

2. The learned counsel representing the appellant contends that once defendant No.1, who was the owner, has admitted to have executed the agreement to sell on receipt of the earnest money, then, the Court should

of the agreement to sell.

3. Both the Courts below have found that in fact, the defendant No.1 has colluded with the plaintiff (the appellant herein) in order to avoid a sale deed, executed by him, with respect to the suit property in favour of the defendant No.2.

4. In the facts of the case, the Court has already granted the decree of refund of the amount. The Court is not bound to grant the decree of possession by way of specific performance only on the ground that defendant No.1 admitted the agreement to sell on receipt of the earnest money. In the facts of the case, the First Appellate Court has passed an appropriate decree. Hence, no ground to interfere is made out to interfere and consequently, the present regular second appeal is dismissed.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

February 24, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No