

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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R.S.A.No.985 of 2021 (O&M)

Date of decision:21.02.2022

Bhola Singh @ Nachhatar Singh

...Appellant

Versus

Sukhvir Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rishav Jain, Advocate, for the appellant.

ANIL KSHETARPAL, J (Oral)

Assailing the correctness of the findings of fact arrived at by the Courts below while decreeing the suit for possession by way of specific performance of the agreement to sell, the defendant has filed the present appeal.

Some facts are required to be noticed.

The plaintiff claiming to be an agreement holder pursuant to the agreement to sell dated 01.08.2013, executed by the defendant in his favour with respect to land measuring 10 marlas (6 biswas) for a total sale consideration of Rs.27,00,000/- filed a suit for grant of decree of possession by way of specific performance of the agreement to sell. The defendant had received an earnest money of Rs.1,00,000/- at the time of execution of the agreement to sell. The sale deed was to be executed on or before

16.12.2013. However, the defendant did not come forward to honour the

agreement compelling the plaintiff to get his presence marked in the office of the sub-Registrar on the agreed date. The defendant denied the execution of the agreement to sell as well as the receipt of the earnest money.

The plaintiff, in order to prove his case, examined himself as PW1, both the witnesses of the agreement to sell as PW2 and PW3, PW4-Arashdeep @ Aasu, Clerk of Sh. Harminster Singh, Advocate, PW5-Shashi Mohan, Advocate, Notary Public, PW6-Surinder Singh, Registration Clerk, and PW7-R.V.Vashist, Handwriting and Fingerprint Expert to prove the execution of the agreement to sell.

On the other hand, the defendant did not lead any evidence.

The learned counsel representing the defendant despite getting the opportunity to cross-examine the various witnesses, failed to impeach the credibility of the witnesses examined by the plaintiff. Thus, both the courts decreed the suit.

The learned counsel representing the appellant while reiterating the stand of the defendant, contends that both the courts have erred in decreeing the suit.

In response to a court question, he admits that the defendant did not lead any evidence in the lower court.

The learned counsel representing the appellant, further, failed to draw the attention of the court to any misreading or non-reading of the

substantive evidence.

While hearing a regular second appeal, the High Court, in exercise of its appellate jurisdiction, has a limited scope of interference.

In view thereof, no ground to interfere with the findings of fact arrived at by the Courts below is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

February 21, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No