

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

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RSA-158-2022(O&M)
Date of decision: 26.07.2022

RAM SAROOP

..Appellant

Versus

SANTOKH SINGH AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sarju Puri, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

The defendant in a suit for possession assails the correctness of concurrent judgments passed by the Courts below.

Sh. Santokh Singh (plaintiff) prays for decree of possession of the site marked in the site-plan as ABCDEF. The defendants contested the suit claiming that the plaintiff agreed to sell the property in his favour and he has received the entire amount. In fact, the execution of the agreement to sell on receipt of Rs.1,00,000/- as earnest money out of the total sale consideration of Rs.1,56,800/- is admitted. The defendants claim that they paid Rs.35,000/- on 13.07.2004 and Rs.21,800/- on 21.12.2004, against their respective receipts. However, the relevant receipts have not been produced on file. The defendants' plea with regard to the agreement to sell being irrevocable has also been found to be wrong. Both the Courts have held that the defendants failed to prove the payment of the balance sale consideration.

This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook.

The learned counsel representing the appellant contends that the Courts below have erred in failing to examine the protection granted under Section 53A of the Transfer of Property Act, 1882.

This Court has considered the submissions, however, one of the necessary ingredients under Section 53A of the Transfer of Property Act, 1882, is readiness on the part of the proposed buyer to execute the sale deed. The defendants have never pleaded that they were always ready to perform their part of the contract.

In this case, the defendants have themselves withheld the best evidence from the Court namely the alleged receipts of the payment.

Hence, no ground to interfere is made out.

Dismissed.

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

July 26th, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*