

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 2086 of 2015 (O&M)

Date of Decision: 09.03.2022

Puran Chand

... Appellant(s)

Versus

Meena Kumari

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Harchand Singh Batth, Advocate
for the appellant(s).

Mr. Vikas Gupta, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The appellant is a defendant in a suit for specific performance of the agreement to sell dated 04.01.2006 with respect to House No. 108/2, Pucca Single Storey, situated at Patti Gali Sangarhian, New Ward No. 4, Tehsil Patti, District Tarn Taran. The plaintiff (the respondent herein) is his daughter-in-law. The defendant contested the suit while asserting that the agreement to sell is the result of impersonation/fraud/forgery and it has been fabricated as well. Both the Courts below have concurrently recorded the findings of fact that the plaintiff has successfully proved the execution of the agreement to sell. The plaintiff has, herself, appeared in the witness box as PW.5, whereas, the witness of the agreement i.e. PW.3-Kuldeep Singh, and PW.2-Jaswant Singh, Scribe, have been examined.

2. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

3. The learned counsel representing the appellant, while drawing the attention of the Court to the effect of the alleged agreement to sell, submits that the Scribe has appended his stamp on the second page of the agreement to sell in a manner, which overlaps the narration of the agreement to sell. He further submits that the thumb impression of Puran Chand was obtained by impersonation.

4. Heard the learned counsel representing the appellant and on perusal of photocopy of the agreement to sell, produced by him, this Bench does not find substance in the aforesaid submissions.

5. The appellant-Puran Chand has appended his thumb impression on the first as well as second sheet of the paper. The agreement to sell is scribed on a non-judicial stamp paper worth ₹100/- consisting of six leaves. The stamp paper has been produced in execution of the agreement to sell. Further, on 30.11.2006, Puran Chand (the appellant herein) has, again, thumb marked the writing, scribed on the reverse side of the first page on which the agreement to sell is scribed. The appellant has not led any evidence to prove that the aforesaid thumb impression has not been appended by him. Moreover, PW.3-Kuldeep Singh, witness of the agreement to sell, has appeared in evidence and supported the case of the plaintiff.

6. Keeping in view the aforesaid facts, this Bench expresses its inability to accept the argument of the learned counsel representing the appellant.

7. In the end, the learned counsel representing the appellant contends that the relief of specific performance should not be granted because the suit was filed after an unexplained delay of more than two years.

8. No doubt, the extended agreed date for execution of the registered sale deed was 12.12.2006, whereas the suit was filed on 05.02.2009. However, keeping in view the relationship between the plaintiff and the respondent, this Bench does not find it appropriate to take a different view while exercising the jurisdiction in second appeal.

9. Hence, no ground is made out to interfere. Consequently, the present appeal is dismissed.

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

(Anil Kshetarpal)
Judge

March 09, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No