

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

(118)

RSA-1148-2023 (O&M)

Date of Decision : May 10, 2023

Yadwinder Singh and others

.. Appellants

Versus

Surjit Singh and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chetan Bansal, Advocate, for the appellants.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present Regular Second Appeal, the challenge is to the judgments and decrees dated 30.07.2022 and 04.02.2023 of the Courts below by which, the suit filed by the appellants-plaintiffs for specific performance for execution of the sale deed dated 03.06.2016 for the property mentioned in the said suit, has been dismissed.

2. On being asked to point out the perversity in the findings of the Courts below wherein, the findings have been recorded that on the date when the appellants-plaintiffs claimed that they were in the office of Registrar for getting the registered sale deed but no evidence has come on record to prove that they were in the said office as being claimed by them.

3. Further, learned counsel for the appellants was requested to point out perversity in the findings recorded by the Courts below that no

evidence has come on record as to how the amount claimed as sale

consideration was paid by the appellants-plaintiffs.

4. Learned counsel for the appellants very fairly conceded that no evidence has come on record to show that the appellants-plaintiffs were present on the said date i.e. 03.06.2016 in the office of the Registrar but submits that the typing of the sale deed and signature on the said sale deed have been proved by the deed writer as well as stamp vendor and attesting witnesses.

5. Learned counsel for the appellants further submits that qua the payment of the sale consideration, nothing has come on record as to how the same has been paid but the appellants-plaintiffs were not required to prove the said fact before the Courts below since the sale deed was being denied.

6. I have heard learned counsel for the appellants and have gone through the record with his able assistance.

7. As far as the arguments being raised by the learned counsel for the appellants that the evidence which has come on record to prove the testimony of deed writer, stamp vendor and attesting witnesses, has been ignored, the said argument of the learned counsel cannot be accepted for the reason that for execution of the sale deed, it has to be proved that the appellants-plaintiffs were ready for execution of the said sale deed.

8. In the present case, it is a conceded position that no evidence has come on record that on the date when the sale deed was to be executed, the appellants-plaintiffs were in the office of Registrar for getting the sale deed executed. No evidence, which has come on record, has been pointed out to this Court to support the fact that the appellants-plaintiffs were ready to perform their part of the agreement, hence, in the absence of any such evidence on record, the other evidence with regard to the typing of the sale

deed will not give a right to the appellants-plaintiffs to claim the specific performance of the oral agreement to sell. Readiness to execute the oral agreement to sell has not been proved before the Courts below, which is the main ingredient to claim the specific performance of the sale agreement.

9. Even otherwise, nothing has come on record as to how the sale consideration has been paid. It is the contention of the learned counsel for the appellants-plaintiffs that total sale consideration of Rs.1,70,000/- has been paid but on being asked to point out as to how the same has been paid, no such evidence which has come on record to support the said claim has been brought to the notice of this Court. That being so, on the said account also, the judgments of the Courts below needs no interference at the hands of this Court in the regular second appeal.

10. No other argument was raised.

11. No ground is made out for any interference called by this Court in the present Regular Second Appeal.

12. Dismissed.

CM-4399-C-2023

As the main appeal has been dismissed, present application also stands dismissed.

May 10, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No