

2023:PHHC:120084

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

CR-3431-2022 (O&M)

Date of decision: 11.09.2023

Kamlesh Kumar and another

..Petitioners

Versus

Jaswinderjit Singh and others

.Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Alok Mittal, Advocate for the petitioners
Mr. Mayank Mathur, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. The petitioners before this Court are defendants in a suit for specific performance of the agreement to sell, which was filed in the year 2013. The challenge is to the correctness of the order passed by the learned trial court, while refusing to grant any further opportunity to the defendants to lead evidence.

2. It has come on record that the defendants were granted an opportunity to lead evidence in 2018, after the plaintiffs closed their evidence. When the defendants were leading evidence, two following additional issues were framed:-

“11. Whether the signatures of defendants No.1 on the agreement dated 05.05.2012 obtained by the plaintiffs under the threat of police as pleaded by defendant No.2 in written statement? OPD.

12. Whether the agreement dated 05.05.2012 do not bear the signatures of defendant No.2 Smt. Santosh Rani? OPD.”

3. Thereafter, the defendants were granted 7-8 opportunities to lead their evidence. Thus, the trial court has refused to grant any further opportunity to the petitioner.

4. Learned counsel representing the petitioners contends that he has not been granted opportunity to amend his affidavit, which was tendered in lieu of the examination-in-chief. He submits that after framing of the additional issues, vide order dated 07.01.2000, the defendants should have been granted opportunity to amend the affidavit.

5. On the other hand, the learned counsel representing the respondents submits that the defendants, while filing the affidavit, have already liberally put forth their plea with regard to the additional issues, which have been framed on the basis of the written statement filed by the defendants. He draws that attention of the Court to para 12 of the affidavit of the petitioner, which reads as under:-

“12. That it is wrong that in order to buy peace or to avoid conflict with the defendants on 5.5.2012, the plaintiffs again entered into an agreement by way of compromise with the defendants or that the defendants agreed to return the amount of Rs.2,14,15,000/- to the plaintiffs or that the plaintiffs agreed to return the 10 Bighas of land already sold out of the suit land by the defendants in favour of the plaintiffs. It is wrong that it was agreed that the defendants would refund the amount of Rs.2,14,15,000/- to the plaintiffs on or before 31.12.2012 or it was also agreed that thereafter there would be no due or claim of the plaintiffs against the defendants or their land. It is wrong that it was further agreed or settled that in case

the defendants failed to refund the amount of Rs.2,14,15,000/- to the plaintiffs on or before 31.12.2012 or then the defendants would be bound to execute the sale deed out of the suit land of 13 Bighas of land adjacent to the land measuring 10 Bighas already sold by the defendants in favour of the plaintiffs. It is wrong and denied that it was agreed and settled that this agreement was in continuation of the agreements dated 14.3.2006, 24.4.2007 and 26.8.2008 or that the parties would be bound by this settlement/agreement. It is wrong and denied that it was also agreed by the defendants that in case either of the parties breach the terms of settlement dated 5.5.2012 or then the other party would have a right to enforce the agreement against the other party through court of law.

It is pertinent to mention here that the alleged agreement to sell dated 5.5.12 is inadmissible in evidence, in-sufficiently stamped, forged and fabricated by the plaintiffs with the help of local police, created one, self contradictory, meaningless, illegal, has no force and value in the eyes of law, void, time barred and does not create any liability. In fact, when the plaintiffs could not succeed in their illegal acts and designs in order to recover their forfeited earnest money, they filed false complaint to the Local Police as the plaintiffs are influential persons of Patiala and the defendants are outsiders, have no source or influence and the plaintiffs started getting the defendants harassed from Local Police and the police officials obtained the signatures of the defendant No.1 on various blank papers on the pretext of recording statements, marking his presence etc and now it reveals that the plaintiffs managed to create the alleged agreement on said papers. As per the Photostat Copy supplied to the

defendants, the stamp paper No.P009983 is in the name of defendant Kamlesh Kumar and was purchased for affidavit, its first page and second page are not signed by the defendant No.1 and signatures of defendant No.1 on last page clearly proves that the writing has been adjusted as per the already existing signatures. The alleged agreement dated 5.5.2012 does not bears the signatures of defendant No.2 and as such is forged and fabricated.

Even as the per the story cooked up by the plaintiffs and as per the alleged agreement, it is alleged that the defendants agreed to pay Rs.2,14,15,000/- to the plaintiffs and the plaintiffs agreed to execute the sale deed of 10 Bighas of land sold by the defendants earlier owner by defendants, in favour of defendants on receipt of above amount and if defendants failed to pay the said amount then they will be bound to execute the sale deed of 13 Bighas of land in their favour and now if it is seen then the plaintiff are owners in possession of 10 Bighas of land which was to be transferred in favour of defendants on receipt of alleged amount and if the said amount is not returned then the plaintiffs can claim only 3 Bighas of land and not 13 Bighas. All such things proves that the alleged agreement dated 5.5.2012 was not executed by the parties with their free will rather it is a result/creation of plaintiffs as pressurizing tactics in order to recover their forfeited amount of earnest money.”

6. It is evident that the petitioners have already filed their affidavit in lieu of examination-in-chief in order to cover the additional issues, which have been framed. Subsequently, even after framing the additional issues, the petitioners have been granted 7-8 additional

opportunities. The suit is pending in the court of first instance for the last 10 years. Hence, no ground to interfere is made out.

- 7. Dismissed.
- 8. All the pending miscellaneous applications, if any, are also disposed of.

11.09.2023
rekha
Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(ANIL KSHETARPAL)
JUDGE