

Sr. No. 763+268

2023:PHHC:061533

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

**CM-8611-C-2022 in/and
RSA-4882-2009 (O&M)
Date of decision: 27.04.2023**

Manjit Kaur and another

...Appellants

Vs.

Ravinder Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sunil Agnihotri, Advocate,
For the non-applicant/appellant No.2/defendant No.3.

Mr. M.L.Sarin, Senior Advocate with
Mr. Ritesh Aggarwal, Advocate,
For applicants/respondents No.1 and 2/plaintiffs.

CM-8611-C-2022

This is an application filed by applicant/respondents No.1 and 2/
plaintiffs praying for allowing the main appeal in favour of appellant No.2/non-
applicant/defendant No.3.

2. Learned Senior Counsel for applicants/respondents No.1 and 2/
plaintiffs submits that the instant appeal was filed against the concurrent
judgments of the learned Courts below, decreeing the suit for possession by
way of specific performance in favour of plaintiffs. After the suit of the
plaintiffs was decreed, non-applicants deposited an amount of Rs.1,20,000/-
with the trial Court towards balance sale consideration.

2.1. Learned Senior counsel would further submit that main appeal
was admitted vide order dated 02.08.2011 and stay granted on 22.02.2010, was
made absolute. Vide order dated 22.02.2010, the appeal was dismissed *qua*
appellant No. 1 i.e., Manjit Kaur. He would further contend that application is
being filed to end the litigation and applicant-respondents No.1 and 2 pray that
appeal may be allowed against them. Further, applicant-respondents No.1 and

2/plaintiffs may be permitted to withdraw the suit and learned trial Court may be directed to return the amount of Rs.1, 20,000/- which was deposited before it.

3. Per contra, learned counsel for non-applicant/appellant No.2/defendants No.3 submits that he has no objection to the prayer made.

4. In view of the above, application is allowed.

Main case

Having suffered concurrent adverse findings by the two Courts below, defendants No.2 and 3 were in second appeal before this Court assailing the trial Court judgment and decree dated 22.12.2001, as upheld by the learned First Appellate Court vide its judgment and decree dated 18.11.2009, decreeing the suit for possession by way of specific performance of agreement to sell dated 24.10.1996, filed by plaintiffs/respondents No.1 and 2 herein,

2. In view of order passed in the above said application, instant appeal is disposed of. Judgments and decrees passed by learned Courts below are rendered nullity. Suit for possession by way of specific performance filed by respondents No.1 and 2 herein, is deemed to be withdrawn. Applicant/respondents No.1 and 2 herein are permitted to move an application before learned trial Court to seek refund of the amount of Rs.1,20,000/- lying deposited before it.

3. Disposed of in above terms.

4. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

27.04.2023
vandana

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No