

RSA-4880-2019 (O&M)

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

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RSA-4880-2019 (O&M)

Decided on : 27.07.2023

Arvind Kumar

... Appellant(s)

Versus

Krishna Devi and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Hardeep Singh Dhillon, Advocate
for the appellant(s).

SANJAY VASHISTH, J. (Oral)

1. Present Regular Second Appeal (RSA) has been filed against the concurrent findings of facts whereby suit filed by the appellant (hereafter referred to as 'plaintiffs') has been dismissed by both the Courts below.

2. In a suit for seeking decree of permanent injunction, filed by the plaintiffs in regard to the house situated in abadi deh Niwarsi, Tehsil Thanesar, District Kurukshetra. It was pleaded that the plaintiff purchased a house vide **agreement to sell dated 28.05.2012** by paying the sale consideration of Rs.3.00 lakhs to one Mr. Ravish Gaba, who was the General Power of Attorney (GPA) of owner of the plot namely; Harbans Lal Gaba s/o Barkat Ram Gaba, r/o 3 E.C. Road, Dehradun.

3. Both the Courts below have held that there is neither any pleading nor any evidence that seller of the plot i.e. Harbans Singh Gaba, was ever owner of the property. Even the suit has been filed on the basis of possession, and the property was claimed only on the basis of sale agreement dated 28.05.2012. However, said document was never got registered, as required under the law.

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4. Even the First Appellate Court has also held that in the absence of any evidence in regard to the ownership rights with the owner Harbans Lal Gaba, the sale of the plot cannot be held to be a lawful transaction. Even the witnesses, who were produced by the plaintiff, did not depose about the ownership of Harbans Lal Gaba regarding the said plot.

5. Another fact, which emerged is that for the sale of the plot on the basis of agreement to sell dated 28.05.2012, plaintiff faced proceedings in a criminal case also, which was got lodged at the instance of defendant No.1.

It is also noticed by the court that the agreement to sell dated 28.05.2012, and the suit for seeking permanent injunction was instituted by the plaintiff on 20.07.2012 i.e. within the period of two months. Instead of getting the document registered, the reason is best known to the plaintiff, that why he chose to file a suit for permanent injunction.

6. Concurrent findings of the fact already recorded *qua* pleadings and evidence by both the Courts below. Besides, no question of law, much less, any substantial question of law arises for consideration in the present appeal for interference in the impugned judgments & decrees passed by the Courts below.

Thus, finding no merit in the present appeal, same stands **dismissed**.

(SANJAY VASHISTH)
JUDGE

July 27, 2023

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No