

2023:PHHC:115736

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

RSA-2772-2023 (O&M)
Date of decision: 29.08.2023

Madan Lal

..Appellant

Versus

Amarjit Kaur and another

.Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Akhil Singh Arora, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

1. The correctness of the concurrent findings of fact arrived at by the courts below is challenged in this Regular Second Appeal filed by defendant no.2.

2. The plaintiff's suit for possession by way of specific agreement to sell with a consequential relief of permanent injunction has been decreed. It has come on record that defendant no.1 executed the agreement to sell in favour of the plaintiff on 24.06.2011, on receipt of Rs.3,00,000/- as earnest money, out of the total sale consideration of Rs.3,50,000/- for a plot measuring 5 marlas and 2 sarsai. As per the agreement to sell, the sale deed was to be executed on or before 24.06.2011. This date was extended on 23.12.2011 by another writing executed on 28.11.2011. However, defendant no.1 sold the property in favour of defendant no.2 on 23.12.2011. Defendant no.1, while filing the written statement, contended that she has borrowed a sum of Rs.1,00,000/- and signed and thumb-marked the blank papers.

She also claimed that the amount has been refunded on 23.11.2011 but the plaintiff did not return the document. On appreciation of evidence, as already noticed, the courts have decreed the suit.

3. Heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook. Learned counsel representing the appellant has produced a photocopy of the alleged agreement to sell. The photographs of Ms. Amarjit Kaur and Ms. Ranju Bala are pasted thereon. Ms. Ranju Bala has not only thumb marked the photograph but also signed in Gurmukhi language. She has also thumb-marked as well as signed at the end of the first page. Similarly, she has also thumb marked and signed where the recitals in the agreement came to an end. Defendant no.1 admits her signatures and thumb impression. These are not proved to be obtained on blank papers. In fact, the agreement to sell has been scribed on a stamp paper worth Rs.2,000/-.

4. Learned counsel representing the appellant contends that there is a difference in the signatures of Ms. Ranju Bala, as her signatures are different on the photograph and signatures on the bottom.

5. This Court has considered the submission. It may be noticed that defendant no.1 has pleaded that the plaintiff obtained her thumb-impression and signatures on the blank papers. She never disputed her signatures. Moreover, she has signed in a manner that her half of the signatures came on the stamp papers whereas remaining half

on the photograph, which has been pasted on stamp paper. The surface of the photograph is bound to be slippery and hence, the signatures are slightly different.

6. Moreover, it has also been found that the sale deed in favour of defendant no.2 (appellant) herein was executed only to create a defence as there was neither any delivery of possession nor any sale consideration has been paid.

7. Hence, no ground to interfere is made out.

8. Dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

29.08.2023
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No