

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

RSA-5425-2017

Date of Decision: July 13, 2023

INDERJIT SINGH

..... Appellant

Versus

RANPHOOL SINGH

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. G.B.S. Dhillon, Advocate for the appellant.

HARKESH MANUJA, J. (ORAL)

1. By way of present Regular Second Appeal, challenge has been made to the judgments and decrees dated 09.01.2015 and 10.04.2017 passed by the Courts below; whereby a suit for recovery filed at the instance of appellant-plaintiff was dismissed.

2. Briefly stating, the appellant-plaintiff filed a suit for recovery for Rs.11,75,000/-, alleging that he owned 20 kanals 17 marlas of land situated in village Dehliz Khurd, Tehsil MalerKotla, District Sangrur regarding which he gave registered General Power of Attorney dated 09.06.2005 in favour of respondent-defendant namely Ranphool Singh. Based upon this, respondent-defendant executed registered sale deed No.1661 dated 22.12.2005 in favour of Smt. Sarabjit Kaur and Paramjit Kaur as regards the aforementioned 20 kanals 17 marlas of land against sale consideration of Rs.11,75,000/-. Appellant-plaintiff further pleaded that the amount of sale consideration was never paid to him by the respondent-defendant and thus, sought recovery of the same.

3. Upon notice, the respondent-defendant filed written statement, denying the pleadings made in the plaint while submitting that the sale consideration was duly paid to the appellant-plaintiff. The

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trial Court vide its judgment and decree dated 09.01.2015 dismissed the suit.

4. Aggrieved thereof, the appellant-plaintiff filed First Appeal, however, the same was also dismissed by Court of Ld. District Judge, Sangrur vide judgment dated 10.04.2017.

5. By way of present appeal challenge has been laid to aforesaid judgments and decrees.

6. Learned counsel for the appellant-plaintiff submits that the respondent-defendant failed to discharge the burden of having paid the amount of sale consideration to the appellant-plaintiff as no evidence in this regard was ever produced at his instance.

7. I have heard learned counsel for the appellant. I am unable to find substance in the submissions made on behalf of the appellant-plaintiff.

8. The case set up in the plaint has been that the appellant-plaintiff was not handed over the amount of sale consideration pertaining to the sale deed dated 22.12.2005 as regards the land owned by him having been sold by his power of attorney-holder i.e. the respondent-defendant. Thus, the factum of money not having delivered to him in pursuance to the registered sale deed dated 22.12.2005 by his power of attorney-holder formed part of the personal knowledge of appellant-plaintiff which he was required to prove by deposition before the Court in support of his plaint with an opportunity to the respondent-defendant to cross-examine him on the said aspect. On the contrary, however, the appellant-plaintiff did not appear himself as a witness,

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Thus, depriving the respondent-defendant of an opportunity to cross-examine him. Even in the present suit, appellant-plaintiff deposed through his power of attorney namely Joginder Singh who appeared as PW-1 in support of the plaint so as to state that the amount of sale consideration in pursuance to sale deed dated 22.12.2005 was never paid to the appellant-plaintiff by respondent-defendant. Admittedly, the power of attorney-holder, Joginder Singh who appeared as PW1 was having no personal knowledge of the previous transaction involving the general power of attorney dated 09.06.2005 having been given by the appellant-plaintiff in favour of respondent-defendant or even regarding the non-payment of sale deed dated 22.12.2005. Therefore, once the appellant-plaintiff himself failed to appear in person to support the averments made in the plaint which formed part of his personal knowledge, the courts below were right in non-suiting him.

9. Moreover, the other witnesses who appeared in support of the plaint, their statements were discarded by the courts below on account of material contradictions therein as regards the time and place of delivery of sale consideration by the vendor to respondent-defendant. Equally important, the findings recorded by the Courts below are purely factual in nature, involving no question of law, much less substantial question of law requiring adjudication thereupon by this Court.

10. Resultantly, the present appeal is dismissed being devoid of merits.

13.07.2023
tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
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<i>Whether Reportable</i>	Yes/No
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