

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

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2024:PHHC:091429



RSA-713-2019 (O&M)
Date of decision: 22.07.2024

BHAG SINGH (DECEASED) THROUGH LRS

..Appellant

Versus

NIRANJAN SINGH (DECEASED) THROUGH LRS & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Sarika Gupta, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the plaintiff assails the correctness of the concurrent findings of fact arrived at by the Courts below while granting him alternative relief of recovery of the amount equivalent to the double amount of the earnest money in a suit for specific performance of the agreement to sell. The plaintiff filed the suit on the basis of the agreement to sell dated 28.06.2004, which is alleged to have been executed by Sh. Niranjan Singh. The defendants contested the suit. It was alleged that the agreement to sell on the basis of which the suit has been filed is forged. It was also claimed that on 16.01.2004, defendant No.1 executed an agreement to sell in favour of defendant No.2, which was followed by the registered sale deed on 18.01.2005. Both the Courts have come to a conclusion that the agreement to sell dated 16.01.2004, executed by defendant no.1 in favour of defendant No.2 was prior in point of time when compared with the

agreement to sell in favour of the plaintiff. Hence, the Courts have granted alternative relief of recovery of the amount.

2. The learned counsel representing the appellant submits that the agreement to sell dated 16.01.2004 has not been proved. She submits that unless and until the agreement to sell dated 16.01.2004 is proved, the plaintiff was entitled to relief of specific performance.

3. This Court has considered the submissions of the learned counsel representing the appellant.

4. It may be noted here that the sale deed dated 18.01.2005 refers refer to an agreement to sell. Moreover, both the Courts upon appreciation of evidence have found that the agreement to sell in favour of defendant No.2 was entered into on 16.01.2004. The defendant No.2 filed an application for permission to prove the aforesaid document, which was allowed. Thus, mere non-production of agreement to sell would not be sufficient to reverse the findings of facts arrived at by the Courts below.

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

6. Dismissed accordingly.

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

July 22nd, 2024

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**(ANIL KSHETARPAL)
JUDGE**

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