

114 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2557-1993 (O&M)

Date of decision: 28.02.2024

Bansari

....Appellant

Versus

Mela Ram (deceased) through LRs

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Praagbir Singh Dhindsa, Advocate for the appellant

Mr. Ankush Dhanerwal, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. In this appeal, the defendant assails the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for the grant of decree of possession by way of the specific performance of the agreement to sell. The execution of the agreement to sell has been proved by examining all three marginal witnesses as well as the scribe. The defendant claimed that no agreement to sell was ever executed, however, he failed to prove the same. The plaintiff himself appeared as PW1 whereas PW2 Mansa Ram, PW3 Ranjit and PW4 Chamela, the marginal witnesses of the agreement to sell were examined. The scribe was also examined. The defendant on the other hand appeared as DW1 and also examined DW2 Saudagar Singh. Thus, both the courts decreed the suit.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook alongwith the requisitioned record.

3. The learned counsel representing the appellant submits that the plaintiff has failed to prove that he attended the office of the Sub Registrar on 30.11.1984. He further submits that the plaintiff has failed to prove that he was always ready and willing to perform his part of the contract.

4. This Court has considered the submissions made by the learned counsel representing the parties.

5. The plaintiff, while filing the suit, has specifically asserted that he attended the office of the Sub Registrar on 30.11.1984. He has proved Ex.P-2, an application filed by him before the Sub Registrar. Ex.P3 is the order passed by the Sub Registrar on his application. Thus, it is proved that the plaintiff attended the office of the Sub Registrar. The plaintiff, while filing the suit, has asserted that he was always ready and willing to perform his part of the contract. While appearing in evidence, he reiterated this fact. Despite lengthy cross-examination of the plaintiff, the defendant failed to impeach his credibility.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.

7. Hence, dismissed.

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

28.02.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE