

RSA-1077-1994(O&M)

2024:PHHC:044279

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

RSA-1077-1994(O&M)

Date of decision :02.04.2024

Jagir Singh and others

...Appellants

Vs.

Pyar Singh and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pawan Kumar Goklaney, Advocate
for the appellants.

Mr. Sanjeev Kumar Arora, Advocate
for the respondents.

ANIL KSHETARPAL, J. (Oral)

1. In this regular second appeal, the plaintiffs challenge the correctness of concurrent findings of the fact arrived at by the First Appellate Court while granting alternative relief of the refund of earnest money alongwith interest. The First Appellate Court has found that relief of specific performance cannot be granted because the agreement to sell pertains to land measuring 10 kanals 18 marlas comprised in Khasra Nos. 23 and 24 of Khewat No. 102, whereas, the defendants' share in Khasra Nos. 23 and 24 is only 02 kanals 18 marlas. The Court has also found that the defendants are not the exclusive owners in possession of land comprising Khasra Nos. 23 and 24 and specific performance of major part of the agreement to sell cannot be performed. In these circumstances, the Court has granted the alternative relief.

2. Learned counsel representing the appellants though made a sincere attempt, however, failed to draw the attention of the Court to any substantive error in misreading or non-reading of evidence. He also failed to point out any

perversity in the view taken by the First Appellate Court.

3. In any case, the agreement to sell in the present case was executed on 15.03.1986, whereas, the sale deed was to be executed on 17.08.1986. The suit was filed on the last day of limitation period, i.e. 16.08.1989.
4. Keeping in view the aforesaid discussion, no ground for interference is made out.
5. Dismissed.

02.04.2024		(ANIL KSHETARPAL)	
neeraj	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No
			JUDGE