

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2268 of 1994 (O&M)

Date of Order:06.05.2024

Kundan Singh

.Appellant

Versus

Sant Kaur (since deceased) through LRs

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naresh Prabhakar, Advocate
for the appellant.

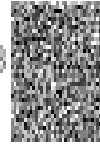
Mr. Sandeep Khunger, Advocate
Mr. Pankaj Samania, Advocate
for the respondent.

ANIL KSHETARPAL, J

1. This is the plaintiff's regular second appeal against the judgment passed by the First Appellate Court which in turn has modified the judgment of the trial Court.

2. The plaintiff is son-in-law of the defendant (respondent). He filed a suit on 05.10.1989, for possession by way of specific performance of the agreement to sell dated 20.03.1978, with respect to 70 kanals and 4 marlas of land which is stated to be a total payment agreement. The First Appellate Court has modified the decree for possession by way of specific performance of the agreement to sell while ordering refund of the earnest money along with interest @ 6% per annum.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.



4. The learned counsel representing the appellant contends that the assertions made in paragraph 3 of the plaint have not been denied by the defendant. Hence, there is no dispute with regard to identity of the property.

5. This court has considered the submissions and find no substance in the present case for the following reasons:-

- (1) Admittedly, the respondent is mother-in-law of the appellant. She executed a Power of Attorney in favour of Sh. Sangram Singh son of the appellant on 20.03.1978. The alleged agreement to sell was also executed on the same day.
- (2) As per the agreement to sell, the defendant agreed to sell three acres land which is located towards the side of the village, whereas it was agreed that 1/3rd share of land located across the river will be sold. The plaintiff has failed to disclose the extent of the land belonging to the respondent across the river. The suit was filed on 05.10.1989, whereas the agreement to sell was entered into between the parties on 20.03.1978.
- (3) As per the agreement to sell, the sale deed was to be executed on sanctioning of mutation in favour of the respondent. However, the appellant has failed to disclose the date or the time line as to when the mutation was sanctioned. This court has repeatedly asked the learned counsel representing the appellant, however, he failed to



disclose the same.

(4) The period of nearly 46 years have elapsed from the date of agreement to sell. In absence of perversity, this court does not find it appropriate to interfere with the discretion exercised by the first appellate court particularly in view of the relationship between the parties and the agreement to sell being vague.

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

7. Dismissed.

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

May 06, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO