

201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1582-1997(O&M)
Date of decision : 17.05.2024

Shamara Singh ...Appellant

Vs.

Baldev Singh ...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajesh Kumar Girdhar, Advocate
for the appellant.

None for the respondent

ANIL KSHETARPAL, J. (Oral)

1. As per the office report, notice issued to respondent has been received back served, however, he remains unrepresented.
2. In this regular second appeal, the defendant assails the concurrent findings of fact arrived at by the Courts below while decreeing the plaintiff's suit for recovery of Rs.21,250/- with simple interest @ 1% per annum from 08.08.1991 to 05.09.1991 with future interest @ 6% per annum on the principal amount from the date of institution till it's realization. From the facts available on the file, it is evident that the appellant agreed to sell the land measuring 06 marlas in favour of the plaintiff vide agreement to sell dated 08.08.1991. He received Rs.21,250/- in cash. Subsequently, it was discovered that he is not the owner of the property. Hence, the plaintiff filed a suit. The defendant while contesting the case submitted that he never executed any agreement to sell nor received the alleged payment. He also claims that in fact

the defendant was in a mentally unfit condition.

3. Upon appreciation of evidence, both the courts below decreed the suit.
4. Heard the learned counsel representing the appellant and with his able assistance perused the paper-book alongwith the lower Court Record.
5. Learned counsel representing the appellant submits that both the marginal witnesses of the agreement to sell have admitted that the payment was not made in their presence. He submits that in such circumstances the plaintiff has failed to prove that the amount was paid.
6. This Court has considered the submissions made by the learned counsel for the parties.
7. An agreement to sell between the parties is in writing, which has been signed by the appellant. Moreover, attestation by two witnesses of the agreement to sell is not required. In any case, the witnesses are not required to evidence the payment. They have only signed as marginal witness to prove that the agreement to sell has been entered into.
8. Keeping in view the aforesaid, no ground to interfere is made out.
9. Dismissed.

17.05.2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No