

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205 RSA-3098-1997 (O&M)

Date of Decision: 01.02.2024

Chiman Singh

.... Appellant

Versus

Ajit Singh and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. C.M. Munjal, Advocate for the appellant.

None for respondent No. 1.

Service of respondents 2 to 18 already dispensed with
vide order dated 26.09.2003.

NIDHI GUPTA, J. (ORAL)

1. By way of filing the present second appeal the plaintiff-appellant has assailed the judgment and decree dated 23.07.1997 passed by the Ist Appellate Court, dismissing the appeal filed by him against the judgment and decree dated 23.01.1996, rendered by trial Court, whereby the suit of the plaintiff-appellant was partly allowed.

2. Briefly, the plaintiff-appellant had filed a suit for specific performance of agreement dated 08.01.1991 or in the alternative, for recovery of Rs.25,000/- with consequential relief of permanent injunction restraining defendant No. 1/respondent No. 1 herein, from alienating the suit property in any way. The learned trial Court vide *ex parte* judgment and decree dated 23.01.1996 partly decreed the suit of the plaintiff-appellant for recovery of Rs.19,000/- along with interest @ 12% per annum w.e.f. 08.01.1991 to 23.01.1996 along with future interest @ 6%

per annum till final realization of the amount with proportionate costs against defendant No. 1/respondent No. 1-Ajit Singh; whereas suit of the plaintiff-appellant for specific performance and permanent injunction against all the defendants/respondents herein was dismissed. Further, suit for recovery of the plaintiff against defendants No. 2 to 18/respondents No. 2 to 18 herein was also dismissed.

3. Being aggrieved, the plaintiff-appellant had filed an appeal before the Ist Appellate Court, which too was dismissed with costs vide impugned judgment and decree dated 23.07.1997, affirming the aforesaid judgment of the trial Court, observing that the learned trial Court had rightly decreed the suit of the plaintiff-appellant for recovery of Rs.25,000/- along with interest referred to above. Hence, the present Regular Second Appeal.

4. Perusal of the file shows that on 19.12.2023, when this case was listed for hearing before this Court, none had put in appearance on behalf of contesting respondent No. 1 and following order was passed by this Court:-

“Perusal of the file shows that lastly, this case was listed for hearing before the Lok Adalat in the year 2004.

There is no representation on behalf of respondent No. 1.

Learned counsel appearing for the appellant prays for time to update his instructions.

Adjourned to 01.02.2024.

In view of the above and in the interest of justice, let actual date of hearing notice be issued to contesting respondent No. 1 for the date fixed. Registry shall also make an effort through the Sarpanch of the concerned village as well as SHO of the concerned area to effect service upon respondent No. 1, so that effective steps can be taken to dispose of the matter.”

5. Pursuant thereto, as per office report dated 30.01.2024, notice issued to contesting respondent No. 1 has been received back with the report ‘died’.
6. Learned counsel for the appellant informs that the defendants/respondents herein were proceeded against *ex parte* before both the Courts below. He further submits that since the matter pertains to the year 1997, he too is unable to establish contact with his client. Therefore, it is prayed that the present matter be disposed of, as he has no fresh instructions and the matter is only with regard to recovery of small amount of Rs.25,000/-.
7. In view of the above, no further directions are required to be issued in the present second appeal and the same is disposed of. However, liberty is granted to the appellant to revive the same within a period of 03 months from today, if so advised.
8. Pending application(s), if any, also stand disposed of.

01.02.2024

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(NIDHI GUPTA)

JUDGE

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