



RSA-389-2018 (O&M)

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**109 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****RSA-389-2018 (O&M)**

Date of decision: 18.07.2024

Sardara Singh

....Appellant

Versus

Harbans Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Karanpreet Singh, Advocate for
Mr. T.S.Chauhan, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the plaintiff assails the correctness of the concurrent findings of fact arrived at by the courts below while granting him alternative relief of refund of earnest money while refusing to grant the relief of specific performance of the agreement to sell dated 12.04.2007.

2. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

3. The plaintiff claims that defendant no.7 to 10 have entered into an agreement to sell in his favour on receipt of Rs.60,000/- as earnest money out of the total sale consideration of Rs.90,000/-. He also sought relief to the effect that decree dated 10.02.2004 is illegal, null and void. The aforesaid decree was passed in a suit filed by defendant no. 2 to 6 against Sh.Bachan Singh etc., heirs of Sh.Thakur Singh which was decreed on 10.02.2004. Both the courts came to a conclusion that on the date, the agreement to sell was executed, defendant no.7 to 10 were not



the owners of the suit property. Hence, recovery of Rs.1,20,000/- against defendant no.7 to 10 has been decreed.

4. Learned counsel representing the appellant has made the following two submissions:-

i) the suit property is different from the property involved in the decree dated 10.02.2004. He submits that Khatoni is different although khasra number is same.

ii) the trial court has declared that the sale deed dated 30.08.2007 is illegal.

5. This Court has considered the submissions made by the learned counsel representing the appellant.

6. In every jamabandi, which is prepared after 4-5 years, khewat and khatoni numbers undergo change. It is only the rectangle and khasra numbers which remain same. Admittedly, the property involved in the agreement to sell and the decree dated 10.02.2004 is comprised in rectangle no.22 khasra no.6/3. Hence, the land is identical.

7. With reference to the second submission, it may be noted that issues no.7, 8 and 9 were decided by the court because the defendants did not lead evidence nor it was pressed during the arguments. However, this was due to oversight. In fact, issue no.7 was not relevant for the decision of the case as the agreement to sell in favour of the plaintiff was entered into by defendant no.7 to 10. Both the courts have held that defendant no.7 to 10 were not owners of the suit property. Inter se transactions between the defendant no.1 and 2 to 6 is not relevant for the decision of the case.

- 8. Keeping in view the aforesaid facts, no ground to interfere is made out.
- 9. Hence, dismissed.
- 10. All the pending miscellaneous applications, if any, are also disposed of.

18.07.2024
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE