

2024:PHHC: 029989

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**RSA No.5915 of 2018 (O&M)
Date of Decision: 01.03.2024**

Kailash Singh and others

...Appellants

Versus

Raghubir and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Deepanshu Matya, Advocate
for the appellants.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment and decree passed by learned Civil Judge (Junior Division), Faridabad (for short 'the trial Court') on 21.05.2016, whereby the Civil Suit filed by the appellants-plaintiffs (here-in-after to be referred as 'the plaintiffs') against the respondents-defendants (here-in-after to be referred as 'the defendants') for seeking the decree for specific performance of the agreement to sell dated 01.12.2006, with a further prayer for the grant of consequential relief of permanent injunction, has been dismissed as well as by the judgment and decree handed down by learned Additional District Judge, Faridabad (for short 'the Lower Appellate Court') on 13.09.2018, dismissing the Appeal, as moved by the plaintiffs against the above-referred judgment and decree dated 21.05.2016, they (plaintiffs) have chosen to prefer the instant appeal to lay challenge to the same.

2. Bereft of the unnecessary details, the facts, as emerging from the perusal of the file and resulting in the filing of the present appeal, are that the

plaintiffs filed the afore-said Civil Suit, while averring that the defendants had executed an agreement on 01.12.2006 to sell the land measuring 42 Kanals 11 Marlas, in their favour, for the sale consideration @ Rs.1,00,01,000/- per acre and they had paid a sum of Rs.48,00,000/-, in cash, to the defendants towards part payment/earnest money and the last date for the execution and registration of the sale-deed had been stipulated as 04.04.2007. Thereafter, the defendants executed and got two sale-deeds in respect of total 32 Kanals of land (each one qua 16 Kanals land) registered in their (plaintiffs') favour on 03.02.2007 and 07.05.2007, after receiving full and final sale consideration for the same. They (plaintiffs) paid another amount of Rs.2,00,500/- to the defendants who handed over the actual physical possession of 36 Kanals 18 Marlas land, including the land comprised in Rect. No.19 Killa Nos. 2/1/1 and 9/3 located on the Western side of the 'Nala' (Drain), to them (plaintiffs) and it was 04 Kanals 18 Marlas more than the land as sold to them, i.e 32 Kanals but they (defendants) failed to deliver the possession of the remaining land, including the land bearing Rect. No.19 Killa Nos. 9/1 and 2/3/1, in pursuance of the above-said agreement and then, on 25.07.2008, a compromise was affected between the parties, whereby the defendants agreed for execution and registration of the sale-deed regarding the afore-mentioned extra land, i.e 04 Kanals 18 Marlas, located on the Western side of the Drain, in their (plaintiffs') favour on the payment of the additional sum of Rs.12 lac to them but they failed to do so despite the issuance of a legal notice to them on 15.06.2015, in this regard. The defendants filed their written-statement, contesting the claim of the plaintiffs therein, *inter-alia*, by asserting that they were in possession over the land, left after the sale of 32 Kanals of land to the plaintiffs and they had never agreed to sell the land comprised in Rect. No.19, Killa Nos.2/1/1 and 9/3, to them (plaintiffs). The parties were put

to the trial by framing the issues and after appreciating and evaluating the evidence led by them on the record and hearing their counsel, the trial Court dismissed the Suit and the Appeal, moved by the plaintiffs against the judgment and decree passed by the trial Court, has also been dismissed by the Lower Appellate Court, as already discussed in the opening para of this judgment.

3. I have heard learned counsel for the appellants-plaintiffs in this appeal, at the preliminary stage and have also gone through the file carefully.

4. Learned counsel for the appellants-plaintiffs has contended that the defendants had failed to comply with the terms of the afore-mentioned compromise regarding the execution and registration of the sale-deed qua the above-referred land measuring 04 Kanals 18 Marlas, including both the afore-said Killa Numbers located on the Western side of the said Drain, in favour of the plaintiffs and in these circumstances, it becomes explicit that the plaintiffs are entitled to the relief as claimed by them in the Suit but vide the impugned judgments and the decrees, both the Courts below have erroneously declined the same and hence, these judgments and decrees are not legally sustainable and deserve to be set-aside.

5. However, the above-raised contentions are devoid of any merit because admittedly, the defendants had agreed to sell 42 Kanals 11 Marlas of land to the plaintiffs but two sale-deeds in respect of total 32 Kanals land, out of the afore-said land, had been executed and registered in their (plaintiffs') favour and it being so, the sale-deed for the remaining 10 Kanals 11 Marlas land was to be executed in pursuance of the above-said agreement whereas in their Suit, the plaintiffs have staked their claim only for 04 Kanals 18 Marlas of land. Moreover, the trial Court as well as the Lower Appellate Court have concurrently held that the afore-referred Killa Numbers, do not find mention

in the above-said agreement. To add to it, as per the afore-said compromise, the plaintiffs were required to pay the additional amount of Rs.12 lac to the defendants within a period of one month but both the Courts below have specifically observed that they had not paid the same accordingly. Thus, it becomes crystal clear that the plaintiffs themselves had failed to adhere to the terms and conditions of the above-mentioned compromise. To cap it all, the Lower Appellate Court also categorically pointed out in Para No.42 in its impugned judgment that neither any specific Killa Number nor the area of the land, had been mentioned in this compromise.

6. Seen from yet another angle, the afore-referred compromise is claimed to have been affected on 25.07.2008. Even if the prescribed period of limitation, i.e 03 (three) years, is computed from the above-mentioned date, even then the fact remains that the same had expired/lapsed on 24.07.2011 but the plaintiffs filed the Suit on 25.09.2015, meaning thereby that at that time, the claim, as set-forth by them therein, had become hopelessly time-barred.

7. As a sequel to the fore-going discussion, it follows that the impugned judgments and decrees, as handed down by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity, so as to warrant any interference by this Court. Resultantly, the same are upheld and the Regular Second Appeal in hand, being *sans* any merit, stands dismissed.

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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No