113 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

2025:PHHC:108350

RSA-113-2020 (O&M)
DATE OF DECISION : 19.08.2025

RAVINDER ... **APPELLANT**

V/S

DALIP SINGH AND OTHERS ... **RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. B.S.Rana, Senior Advocate with
Mr. Manav Dhull, Advocate for the appellant.

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PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred by plaintiff-appellant being aggrieved by dismissal of his suit for specific performance of agreement dated 06.05.2013 vide impugned judgment and decree dated 23.12.2015 passed by Court of learned Addl. Civil Judge. (Sr. Division), Panipat as well as vide judgment and decree dated 20.02.2019 passed by the Court of learned Addl. District Judge, Panipat.

2. Both the Courts after considering the evidence on record and respective contentions raised by parties concluded that agreement dated 06.05.2013 was executed with intention to act as security for loan taken by defendant and not for sale of property. On the basis of admission made by defendant Dalip, Courts below have decreed the suit of plaintiff allowing plaintiff to recover amount of Rs. 12 Lakhs from defendant no.1 along with interest @ 9% p.a. till realisation. It is worth noticing that against said order allowing recovery by learned Court of First Instance vide judgment and decree dated 23.12.2015 defendant no.1 had also preferred appeal which

was, however, dismissed along with appeal preferred by present plaintiff-appellant.

3. Learned counsel for the appellant has argued that Courts below have erred in not accepting the due execution of agreement-to-sell once it had accepted payment of earnest money of Rs. 12 laksh and had ordered recovery of same along with interest. It is asserted that findings of Courts below are in contradiction with finding regarding payment of earnest money.

4. Though on first look, the argument raised on behalf of appellant seems to be quite attractive, however, perusal of both the judgments as well as evidence on record, in fact goes to show that no error with judgments passed by Courts below can be found. Both the Courts after appreciating the evidence have rightly concluded that agreement executed by defendant no.1 was not intended to sell property but was executed as a matter of security.

5. Facts in the present case as regards to feduciary relationship between plaintiff and defendant are not in dispute. It is admitted fact which has been duly asserted by plaintiff himself that plaintiff is an *artia* and used to purchase produce of defendant no.1 who is an agriculturist. It is also not in dispute that even brother of defendant no.1 used to sell his produce to plaintiff. Both the parties were in relationship of lender and borrower. Plaintiff while appearing as PW has duly admitted to have given Rs. 9 Lakhs on loan to defendant no.1. He has also admitted that he has not taken any steps to recover the same even though same are still stated to be due against the defendant. Similarly, defendant has also claimed to have taken Rs. 1,50,000/- from the plaintiff which he claimed to have returned back to the plaintiff.

6. On consideration of evidence of plaintiff, who had appeared as PW1 as well as admission made by defendant in his written statement that he was under debt of plaintiff, it is clearly made out that findings recorded by learned Court below is based on evidence recorded before learned Court of First Instance. In the facts and circumstances of the present case in the light of evidence led by parties, the only conclusion which can be drawn specially in view of assertions of plaintiff that he had given Rs.9 lakhs as loan to defendant no.1 but has not recovered till date nor has taken any steps to recover the same is that agreement-to-sell dated 06.05.2013 was a security towards loan and was never intended for sale of property. No fault with the conclusion drawn by the learned Courts below can be found.

7. The arguments raised on behalf of appellant that the findings of learned Courts below are contradictory in nature as they have allowed plaintiff to recover Rs. 12 lakhs which was paid as earnest money alongwith interest. I do not find any contradiction in the judgments passed by the Courts below. In fact, perusal of own evidence of PW1 goes to show that he had given Rs. 9 lakhs loan to defendant no.1 which was not returned back by defendant no.1 nor he has taken any steps to recover the same. This goes to show that earnest money of Rs. 12 lakhs was in lieu of amount due for loan of Rs. 9 lakhs extended to defendant no.1. The findings of learned Courts below are in line with pleadings and evidence led by parties as plaintiff as well as defendant have admitted giving and taking of money on loan and execution of agreement as security has been asserted by defendant. The recovery rights awarded in favour of plaintiff therefore, clearly based upon

conclusion that amount was due to defendant as he himself has admitted that agreement-to-sell was executed as a security and has not denied its execution.

8. I do not find any merit in the regular second appeal. Same is based on concurrent finding of facts. No substantial question of law arises. Hence, present appeal is dismissed. Parties to bear their own costs

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

19.08.2025 **(PARMOD GOYAL)**
Janki **JUDGE**

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