



RSA-3333-2015 (O&M)

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

RSA-3333-2015(O&M)

Date of decision :25.07.2025

Rajnish Kumar & ors.

..... Appellants

Versus

Sukhpal Singh & anr.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Rakesh Gupta, Advocate
Ms. Ruchi, Advocate
Ms. Simranjit Kaur Ahluwalia, Advocate
Ms. Gurmeet Kaur, Advocate for the appellants.

Mr. S.K.Bawa, Advocate for respondent No.1.

Service of respondent No.2 already dispensed
with vide order dated 08.08.2016.

PANKAJ JAIN, J. (ORAL)

1 Plaintiffs are in second appeal aggrieved of judgment and decree passed by the Appellate Court whereby the main relief of specific performance has been declined and the suit filed by plaintiffs has been decreed for alternate relief.

2 The plaintiffs filed suit seeking decree of specific performance of agreement to sell whereby defendants agreed to sell land measuring 47 Kanal 7 marlas for a valuable consideration of Rs.38.00 lakhs. As per the plaintiffs, at the time of execution of agreement to sell an amount of Rs.4.00 lakhs was paid as earnest money and the target date was fixed to be 30.06.2006. As per the case of the plaintiffs, the date was further extended



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to 30.08.2006 on payment of additional amount of Rs.4.00 lakhs. In order to prove their case, the plaintiffs examined the attesting witness namely Charan Singh Kainth, PW-4. There is no serious dispute with respect to execution of the agreement to sell between the parties. However, the issue is regarding extension of target date from 30.06.2006 to 30.08.2006. Admittedly there is an over writing whereby **30.07.2006** was over written as **30.08.2006**. The attesting witness to the endorsement Charan Singh Kainth, PW-4 admitted that in his presence neither any over writing was made nor any cutting was made. It is on account of this that the Appellate Court set aside the decree qua the main relief and granted the plaintiffs money decree.

3 Learned counsel for the appellants has drawn attention of this Court to the findings recorded by the Court of the First Instance in para 20 which read as under :-

“20. Plaintiffs claim that on 24.03.2006 vide endorsement Ex.P4 the date for execution of the sale deed was extended from 30.06.2006 to 30.08.2006. While defendants claim that said date was extended to 30.07.2006 and not 30.08.2006 as claimed by the plaintiffs.

Endorsement Ex. P4 is attested by Gurbachan Singh father of defendant Sukhpal Singh as one of its marginal witness. Said Gurbachan Singh stepped into the witness box as DW1. However in his testimony he nowhere deposed that parties have mutually extended the date for the execution of the sale deed from 30.06.2006 to 30.07.2006 as claimed by his son defendant Sukhpal Singh. On other hand Charan Singh another marginal witness of the said endorsement Ex. P4 stepped into the witness box as PW-4. He has categorically deposed that date for the execution of the sale deed was extended from 30.06.2006 to 30.08.2006. His testimony to this effect remains unrebutted. Both plaintiffs and defendants have reason to depose regarding the said date. However PW4 Charan



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Singh is an independent marginal witness and his testimony do inspires the confidence. More so when other marginal witness of Ex. P4 named Gurbachan Singh despite being father of defendant no. 1 has chosen to remain silent with regard to the date extended for the execution of the sale deed.”

4 Having gone through the findings recorded by the Trial Court, this Court finds that the same are based upon mere surmises and conjectures. Trial Court tried to make out a case with respect to over-writing which was neither pleaded nor proved. Trial Court inferred *qua* habit of the scribe without any basis.

5 The Lower Appellate Court rightly non-suited the plaintiffs, as the over-writing in the agreement to sell that too with respect to the material aspect of target date was belied by attesting witness. This material fact goes to the root of the case. Once the basic document, on the basis of which discretionary relief of specific performance was sought by the plaintiffs has come under cloud of suspicion, no fault can be found with the approach of the Lower Appellate Court decreeing the suit for alternate relief.

6 Finding no merits in the present appeal, the same is ordered to be dismissed.

7 Pending miscellaneous application, if any, also stands disposed off.

25.07.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No