IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-2180-2023
Date of decision: 12.02.2026

Rajpal . . . . Appellant

Vs.

Bal Krishna and another . . . . Respondents

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. B.S. Rathee, Advocate, for the appellant.

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DEEPAK GUPTA, J. (ORAL)

The present appeal has been preferred by the plaintiff–Rajpal against the judgment and decree passed by the learned First Appellate Court, whereby the decree for specific performance granted by the trial Court was set aside, and the relief was confined to refund of ₹30,000/-, being double the amount mentioned in the writings dated 18.09.2007, along with interest @ 6% per annum from the date of filing of the suit.

2. The plaintiff had instituted a suit for specific performance of an alleged agreement to sell dated 18.09.2007 in respect of the suit property, pleading that defendant No.1–Bal Krishna, being owner thereof, agreed to sell the same for a total consideration of ₹15,000/-, which was allegedly paid in entirety at the time of execution of the writing. It was further pleaded that possession was delivered and that the sale deed was to be executed as and when demanded by the plaintiff. It was alleged that in violation of the said agreement, defendant No.1 executed a registered sale deed dated 29.07.2011 in favour of defendant No.2, who thereafter attempted to interfere with the plaintiff's possession.

3. Defendant No.1 denied execution of any agreement to sell and pleaded that he had merely borrowed a small amount and that his thumb impressions were obtained on blank papers, which were subsequently misused. Defendant No.2 asserted that he was a bona fide purchaser for

value under a registered sale deed and had no notice of any prior agreement.

4. The trial Court, on appreciation of evidence, decreed the suit for specific performance. However, the First Appellate Court, upon re-appreciation of evidence, reversed the decree and confined relief to refund of double the amount mentioned in the writings.

5 Having heard learned counsel for the appellant and perused the record, this Court finds no infirmity in the approach adopted by the First Appellate Court.

6. The primary question is whether the writings dated 18.09.2007 (Ex.PW2/B and Ex.PW2/C) constitute a valid and enforceable agreement to sell. The enforceability of such a document must be tested on the touchstone of certainty and completeness of essential terms. A contract must be certain and definite in its material terms, and if the essential ingredients are uncertain or incomplete, specific performance cannot be granted. Courts are not entitled to make a new contract for the parties. The principle was explained in ***K. Narendra v. Riviera Apartments (P) Ltd., 1999 (5) SCC 77,*** wherein it was observed that specific performance cannot be granted, where essential terms are absent or incapable of precise enforcement.

7. A reading of the writings in question reveals that although the amount of ₹15,000/- is mentioned and reference is made to sale of a plot, the documents do not stipulate any time for execution of the sale deed, nor do they contain any clause obligating the vendor to appear before the Sub-Registrar. There is no recital of delivery of possession. The source of title of the vendor is not reflected. Most significantly, the dominant clause in the document provides that in case either party backs out, the defaulting party shall pay double the amount. The structure and emphasis of the writing thus center more upon repayment with a penal stipulation than upon mandatory conveyance of title.

8. The intention of parties must be gathered from the document as a whole. Mere use of the expression "sale" does not *ipso facto* convert a document into a concluded agreement to sell; the surrounding terms and stipulations must be examined to ascertain whether parties intended an enforceable contract of transfer or merely a security arrangement. When the principal operative clause provides for payment of double the amount upon breach, and essential terms regarding execution and registration are conspicuously absent, the inference drawn by the First Appellate Court that the transaction was essentially monetary in nature cannot be said to be unreasonable.

9. Even assuming arguendo that the writings could be construed as an agreement to sell, the plaintiff was bound to establish continuous readiness and willingness in terms of Section 16(c) of the Specific Relief Act. It has been held time and again that readiness and willingness must be established throughout from the date of the contract till the date of decree. A mere assertion in pleadings is not sufficient; the conduct of the plaintiff must reflect sustained willingness. The plaintiff must demonstrate continuous capacity and intention to perform his obligations.

10. In the present case, the alleged agreement is dated 18.09.2007. The property was sold to defendant No.2 on 29.07.2011. The plaintiff issued the first legal notice only on 25.02.2015 and instituted the suit on 13.08.2015. There is no evidence of any demand or action taken in the interregnum of nearly eight years. Such prolonged silence materially undermines the plea of continuous readiness and willingness. The Supreme Court in ***Saradamani Kandappan v. S. Rajalakshmi and others, 2011 (12) SCC 18,*** has cautioned courts against ignoring delay in property transactions, particularly in an era of rapid escalation of land values. Equity does not favour a party, who remains inactive for years and seeks enforcement only after the property has changed hands.

11. It is true that by virtue of the 2018 amendment to the Specific Relief Act, the discretionary element in granting specific performance has

been curtailed. However, the foundational requirement of existence of a valid and concluded contract remains unchanged. Section 16(c) continues to operate. Even post-amendment, the court must examine whether statutory requirements are satisfied and whether the contract is legally enforceable. Specific performance is not to be granted mechanically, as it presupposes a valid contract and compliance with statutory obligations.

12. As regards defendant No.2, the sale deed dated 29.07.2011 is a registered instrument executed for valuable consideration of ₹1,00,000/-. The alleged prior writings relied by the plaintiff were neither registered nor reflected in any public record. There is no material to establish that defendant No.2 had notice, actual or constructive, of the prior transaction. A transferee for value without notice is entitled to protection unless prior agreement and notice thereof are proved. The finding of the First Appellate Court that defendant No.2 is a bona fide purchaser is thus well-founded.

13. It must further be borne in mind that the present matter arises in second appeal. The First Appellate Court is the final court of facts. The interference in second appeal is permissible only where findings are perverse, based on no evidence, or involve substantial question of law. Re-appreciation of evidence is impermissible.

14. In the present case, the First Appellate Court has examined the documents, analysed their contents, and drawn a plausible conclusion. The view taken is a reasonable and legally sustainable one. Merely because another interpretation may be possible does not give rise to a substantial question of law.

15. The writings themselves stipulate payment of double the amount in case of breach. Once specific performance is declined, the plaintiff is entitled only to the alternative contractual relief embodied in the document. The direction to refund ₹30,000/- with interest @ 6% per annum from the date of suit is thus consistent with the express stipulation and does not suffer from illegality.

16. For the reasons aforesaid, this Court finds no perversity, illegality, or misapplication of law in the judgment and decree passed by the First Appellate Court. No substantial question of law arises for consideration. The appeal is accordingly dismissed. Parties shall bear their own costs.

(DEEPAK GUPTA)
JUDGE

12.02.2026
Vivek

Whether Speaking/reasoned	*Yes*
Whether reportable	*No*