

RSA No.1547 of 2015 (O&M)
RSA No.1563 of 2015

1

2026:PHHC:034311



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

Date of Decision : 26.02.2026

RSA No.1547 of 2015 (O&M)

Raj Kumar Mittal

....Appellant

Versus

Ashoo Arora and another

.....Respondents

RSA No.1563 of 2015

Ashoo Arora

....Appellant

Versus

Raj Kumar Mitta and another

.....Respondents

CORAM: HON'BLE MR JUSTICE PANKAJ JAIN

Present: Mr. Pankaj Midha, Advocate
for the appellant in RSA-1547-2015 and
for respondent No.1 in RSA-1563-2015.

Mr. S.K. Sharma, Advocate
for the appellant in RSA-1563-2015 and
for respondent No.1 in RSA-1547-2015.

Respondent No.2 proceeded against *ex parte*
vide order dated 01.03.2018 in RSA-1563-2015.

Service of respondent No.2 dispensed with
vide order dated 01.03.2018 in RSA-1547-2015.

PANKAJ JAIN, J. (ORAL)

These are cross-appeals arising out of a suit for specific
performance.



2. Plaintiff filed suit for possession by way of specific performance of agreement to sell, dated 02.12.2004 claimed to have been executed by defendant No.1 in his favour whereby he agreed to sell plot bearing No.216 situated at Sector-27, Panchkula in favour of plaintiff for a total sale consideration of Rs.4,45,000/- over and above the amount already paid by defendant No.1 to defendant No.2.

3. As per plaintiff, he paid an earnest money of Rs.60,000/- to defendant No.1 on the date of execution of agreement to sell. The parties agreed to get the sale deed executed on or before 02.12.2004. The date was later on extended to 02.05.2005 by mutual consent of the parties. As per the pleaded case of the plaintiff, there arose a dispute with regard to allotment of plot No.216 in favour of defendant No.1. The transaction could not fructify. Defendant No.1 was later on allotted an alternate Plot bearing No.258 in Sector-27, Panchkula in lieu of Plot No.216, Sector-27, vide Memo No.16340, dated 06.7.2007. Defendant No.1 applied for permission to transfer the plot in favor of the plaintiff. The same was granted subject to deposit of an amount of Rs.1,75,200/- with the office of defendant No.2. The amount was deposited by defendant No.1. However, later on defendant No.1 moved an application requesting defendant No.2 to reject the permission to transfer plot in favor of plaintiff. Plaintiff claims to have served legal notice, dated 30.01.2008 upon defendant No.1 and thereafter instituted present suit on 29.08.2008.



3.1. Plaintiff claims that he always remained ready and willing to perform his part of contract and prays for grant of decree of specific performance.

4. Suit was contested by defendant No.1. As per defendant No.1, he never executed agreement to sell in favour of the plaintiff. Plaintiff is a property dealer by profession and runs his business in the name and style of Basera Properties. Defendant No.2 allotted plot bearing No.216, Sector-27, Panchkula to defendant No.1, but the possession was not delivered. While defendant No.1 was trying to get possession, he came in contact with the plaintiff. On his assurance to get possession of plot No.216, Sector-27, Panchkula, defendant No.1 signed various blank papers, which have been misused by the plaintiff to prepare agreement to sell, in question. Defendant No.1 never executed any agreement to sell in favour of plaintiff. Not only this, plaintiff on the strength of signed blank papers, applied for transfer of plot No.258, Sector-27, Panchkula, in his favour. Once the aforesaid fact came to the knowledge of the defendant No.1, he immediately requested defendant No.2 not to grant permission to transfer plot in favour of the plaintiff. Defendant No.1 denied of having received any earnest money.

4.1. In a separate written statement, defendant No.2 asserted that the plaintiff is a stranger to the plot. It stands admitted by defendant No.2 that earlier plot No.216, Sector-27, Panchkula was allotted to defendant No.1 and



later on plot No.258, Sector 27, Panchkula was allotted to him in lieu thereof.

5. Suit filed by the plaintiff was put to trial by the Court of the First Instance, framing following issues.

1. Whether the plaintiff is entitled to possession of plot in question by way of specific performance of agreement to sell dated 2.12.2004, as alleged? OPP
2. Whether plaintiff is entitled to permanent injunction, as alleged? OPP
3. Whether the suit of the plaintiff is not maintainable in the present form? OPD
4. Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD
5. Whether the plaintiff has filed the present suit in collusion with defendant No.2 as alleged in preliminary objection No.3? OPD
6. Whether the plaintiff is estopped from filing the present suit? OPD
7. Whether the plaintiff has not affixed ad-valorem court fees? OPD
8. Whether the plaintiff has concealed true and material facts from the court, if so, to what effect? OPD
9. Whether the suit of the plaintiff is barred by law of limitation? OPD
10. Whether agreement to sell dated 2.12.2004 is forged and fabricated document, if so, to what effect? OPD
11. Relief.

6. The Court of the First Instance held that on the day the plaintiff claims that the agreement to sell was executed, the plot in question was not



even in existence. Agreement to sell is *qua* Plot No.216, Sector-27, Panchkula which could not be allotted to defendant No.1 due to unforeseen circumstances. The agreement was not thus enforceable. The Trial Court further found that even as per the case of the plaintiff, defendant No.1 opposed permission to transfer plot in favour of plaintiff vide communication dated 11.10.2007. Thus, cause of action in favour of plaintiff arose on 11.10.2007, but the present suit was filed only on 29.08.2008. The Trial Court accordingly dismissed the suit filed by the plaintiff.

7. Dissatisfied plaintiff filed appeal.

8. Lower Appellate Court allowed the appeal filed by the plaintiff in part, holding him entitled to alternate relief of recovery of earnest money of Rs.60,000/- along with interest @ 12% per annum from the date of payment i.e., 02.12.2004 till the date of actual realization.

9. Both the parties have filed appeals.

10. RSA No.1563 of 2015 is at the behest of the plaintiff. RSA No.1547 of 2015 is at the behest of defendant No.1.

11. Counsel for the plaintiff/appellant has argued that the Courts below erred in denying the main relief of specific performance to the plaintiff. He submits that once Lower Appellate Court held that defendant No.1 executed agreement to sell in favour of the plaintiff on receipt of earnest money and that the suit was filed within the prescribed period of



limitation, the main relief of specific performance ought not have been denied to the plaintiff.

12. Learned counsel for defendant No.1 has assailed the findings recorded by the Lower Appellate Court. He submits that the well reasoned findings recorded by the Trial Court, have been reversed. The Lower Appellate Court failed to appreciate that there are various cuttings w.r.t. extension of time claimed by the plaintiff, which were well appreciated by the Trial Court. He submits that even as per the case of the plaintiff, the extended date for execution of the sale deed was 02.05.2005 whereas the present suit was filed on 29.08.2008 i.e., beyond the prescribed period of limitation of three years. Thus, the Trial Court rightly held the suit to be barred by limitation. He prays that the judgment & decree passed by the Lower Appellate Court be set aside and decree passed by the Trial Court dismissing the suit filed by the plaintiff, be restored.

13. I have heard counsel for the parties and have carefully gone through records of the case.

14. Both the Courts below have concurrently found that defendant No.1 executed agreement to sell in favour of the plaintiff. The fact that defendant No.1 submitted application seeking permission to transfer plot in favour of the plaintiff, also proves the same. Thus, this Court finds no reason to interfere in the concurrent finding recorded by the Courts below regarding execution of agreement to sell, dated 02.12.2004.



14.1. It has come on record that earlier defendant No.1 was allotted plot No.216, Sector-27, Panchkula. For some reasons, possession thereof could not be handed-over to defendant No.1 by defendant No.2. Later on, defendant No.2 allotted alternate plot bearing No.258, Sector-27, Panchkula to defendant No.1 vide communication dated 06.07.2007 and possession thereof was also delivered. Thus, for all intents & purposes the agreed date of execution of sale deed i.e., 02.05.2005 got extended. Defendant No.1 moved an application dated 15.11.2007 requesting defendant No.2 not to transfer the plot. Thus, the cause of action in favour of plaintiff to file suit for specific performance arose on the said date. Plaintiff served legal notice dated 30.01.2008 calling upon defendant No.1 to transfer plot in his favour. The present suit was instituted on 29.08.2008. From 15.11.2007/30.01.2008 there is no evidence on record to prove readiness and willingness of the plaintiff.

14.2. On being specifically asked during the course of arguments, counsel for the plaintiff was not in position to point out any evidence that could evince readiness and willingness of the plaintiff.

14.3. In view thereof, this Court finds that though the plaintiff successfully proved execution of agreement to sell and the suit was filed within the prescribed period of limitation, but plaintiff cannot be granted main relief of specific performance for want of evidence to prove his



readiness and willingness in terms of Section 16(c) of the Specific Relief Act, 1963.

14.4. As a sequel of the discussion held herein-above, both the appeals are hereby dismissed.

14.5. Decree of alternate relief granted by the Lower Appellate Court is ordered to be maintained.

15. A copy of this order be kept on the file of other connected case.

16. Pending application, if any, shall also stand disposed off.

February 26, 2026
Dpr

(Pankaj Jain)
Judge

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