

(2010) 11 P&H CK 0538

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 3466 of 2008 (O and M)

Bhagat Singh and Others

APPELLANT

Vs

Darshan Singh

RESPONDENT

Date of Decision: Nov. 12, 2010

Hon'ble Judges: Gurdev Singh, J

Bench: Single Bench

Judgement

Gurdev Singh, J.

Heard.

1. The Appellants/Defendants - Bhagat Singh, Amar Singh, Chann Singh @ Chand Singh, have filed this second appeal after having lost in the first appeal preferred by them against the judgment and decree dated 1.3.2006 passed by Civil Judge (Sr. Division) Ferozepur, decreeing the suit of the Respondent/Plaintiff - Darshan Singh for the recovery of Rs. 1,27,000/-, along with interest @18% per annum from the date of execution of the agreement till date of decree.

2. In fact Plaintiff filed suit for possession of 7 Kanal and 4 Marlas of land by way of specific performance of the agreement dated 21.7.2001, which according to him was executed in his favour by Defendant No. 1 and at the time of execution of the agreement said Defendant received Rs. 1,27,000/-as earnest money. He also prayed for declaration to the effect that sale of land in favour of Defendants No. 2 and 3 is illegal, null and void and ineffective on his rights and in the alternative for the recovery of Rs. 1,50,000/-; Rs. 1,27,000/-refund of earnest money and Rs. 23,000/-as damages. He succeeded in proving the execution of agreement in his favour by Defendant No. 1 and that the sale deed executed in favour of Defendants No. 2 and 3 was null & void and ineffective on his rights. However, he failed to prove that he always remained ready and willing to perform his part of the contract. Accordingly, the trial Court did not decree the suit of the Plaintiff for specific performance of the agreement. Defendants preferred an appeal against the judgment and decree of the

learned trial Court, but the same was dismissed.

3. Vide order dated 9.12.2009, notice of motion was issued only regarding the rate of interest on the ground that no rate of interest was mentioned in the agreement nor the alleged transaction was commercial one.

4. At the time of arguments, it was fairly conceded by learned Counsel for the Plaintiff that interest so allowed by the lower Courts is on the higher side and he agreed that the same be reduced to 12% per annum.

5. Accordingly, the decree of the learned trial Court is modified to the effect that Plaintiff shall be entitled to recover the said amount of Rs. 1,27,000/-along with interest @12% from the date of agreement i.e. 21.7.2001 till the date of filing of the suit.

The appeal is disposed of accordingly.