

(2014) 07 P&H CK 0230

High Court Of Punjab And Haryana At Chandigarh

Case No: RSA No. 4999 of 2013 (O&M)

Rai Sahab

APPELLANT

Vs

Udey Singh

RESPONDENT

Date of Decision: July 8, 2014

Hon'ble Judges: Rajesh Bindal, J

Bench: Single Bench

Advocate: Atul Lakhpal, Senior Advocate and Rashmi A. Lakhpal, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Rajesh Bindal, J.

The defendant is before this Court against the concurrent findings of fact recorded by both the Courts below whereby the suit filed by the respondent-plaintiff for specific performance of agreement to sell, was decreed.

2. In the case in hand, the appellant-defendant entered into an agreement to sell for land measuring 20 kanals situated in village Nadodi, Tehsil and District Fatehabad @ Rs. 3,60,000/- per acre, on 5.11.2007. Earnest money of Rs. 5,80,000/- was paid. The last date for registration of sale-deed was 6.1.2008. The vendee paid another sum of Rs. 2,00,000/- to the appellant on 7.1.2008. Thereafter, the last date for registration of sale-deed was extended upto 6.5.2008. As the appellant failed to get the sale-deed registered, the respondent-plaintiff filed the suit, which was decreed by the trial court. In appeal, the judgment and decree of the trial court was upheld by the learned Lower Appellate Court.

3. Learned counsel for the appellant raised two fold submissions namely that agreement to sell was a result of fraud and further that the respondent-plaintiff was not ready and willing to get the sale-deed registered. In the absence thereof, the suit for specific performance could not have been decreed even if the agreement to sell was proved. The only relief to which the respondent-plaintiff was entitled to, is

the refund of earnest money.

4. After hearing learned counsel for the appellant, I do not find any merit in the present appeal. The findings of fact have been recorded by both the courts below on correct appreciation of evidence led by the parties. To prove the execution of agreement to sell dated 5.11.2007 (Ex. P2), and extension granted on 7.1.2008 (Ex. P3), the plaintiff besides examining himself also produced Ram Kumar, the attesting witness. He specifically stated that the agreement was executed in his presence. The same was read over to the appellant, who after admitting the same to be correct appended his signatures thereon.

5. Agreement to sell dated 5.11.2007 (Ex. P2) was scribed by Gopal Sardana, Advocate, who appeared as PW 3, and proved the execution thereof. The plea sought to be raised by the appellant that the agreement to sell is a forged document as some blank signed papers have been utilised, which were taken from the appellant for security of a loan. But this fact could not be proved. A perusal of the agreement to sell and another agreement executed on 7.1.2008 regarding extension of time for registration of sale-deed after taking another sum of Rs. 2,00,000/- itself shows that the appellant very well aware of the documents being executed.

6. The explanation that the second document was signed by the appellant with a view to prepare a document for cancellation of agreement to sell is totally misconceived. Even a perusal of both the documents, Ex. P2 and P3, do not show that they have been prepared on blank signed papers. Still further, both the documents, Ex. P2 and Ex. P3, have been written on stamp papers, which have been purchased by the appellant himself. In case the document was executed by the appellant for securing loan of Rs. 1,00,000/-, the amount mentioned in the agreement would have been Rs. 1,00,000/- and not Rs. 5,80,000/- as was mentioned. The appellant had admitted his signatures on the agreement to sell and also on the agreement for extension in time.

7. As far as the contention regarding the respondent-plaintiff being not ready and willing to get the sale-deed registered is concerned, the same is without any merit. Total sale consideration of land measuring 20 kanals @ Rs. 3,60,000/- per acre would come out to Rs. 9,00,000/-, out of which Rs. 5,80,000/- was paid as earnest money on 5.11.2007. Another sum of Rs. 2,00,000/- was paid on 7.1.2008 when the last date for registration of sale-deed was extended. The respondent-plaintiff had already paid a sum of Rs. 7,80,000/- and the balance was merely Rs. 1,20,000/-. The respondent-plaintiff specifically stated that he was ready and willing to get the sale-deed registered.

8. For the reasons mentioned above, I do not find that any error has been committed by the Courts below in decreeing the suit filed by the respondent-plaintiff. No substantial question of law arises in the present appeal. The

appeal is accordingly dismissed.