

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

RSA No.1891 of 2011(O&M)

Date of Decision: July 29, 2011

Darshan Singh

.....Appellant

v.

Narata Singh

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAM CHAND GUPTA

Present: Mr.TPS Makkar, Advocate
for the appellant.

Mr.Pardeep Bajaj, Advocate
for the caveator-respondent.

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RAM CHAND GUPTA, J.(Oral)

The present regular second appeal has been filed against judgment and decree dated 23.12.2010 passed by learned Additional District Judge, Mansa, vide which appeal filed by present appellant-defendant against judgment and decree dated 28.5.2010 passed by learned Additional Civil Judge, Senior Division, Budhlada, decreeing the suit filed by respondent-plaintiff, was dismissed.

I have heard learned counsel for the parties and have gone through the whole record carefully including the judgments passed by both the learned Courts below.

Briefly stated, respondent-plaintiff filed a suit for possession by way of specific performance of agreement to sell, Ex. P1, dated 11.3.2005 allegedly executed by present appellant-defendant in favour of respondent-plaintiff. It has been averred that ₹2,50,000/- were paid to him as earnest money, whereas total consideration was ₹3,00,000/- per acre and

the total land was 26 kanals 19 marlas.

Appellant-defendant denied the very execution of the said agreement and took the plea that the same is a result of forgery and fraud committed upon him.

Both the Courts had taken a view that respondent-plaintiff has proved due execution of agreement Ex.P1 by appellant-defendant by examining both the attesting witnesses of the agreement. Even out of consideration of ₹2,50,000/- which were paid to appellant-defendant as earnest money at the time of execution of the agreement, ₹2,35,000/- were stated to have been deposited in the account of present appellant-defendant in Oriental Bank of Commerce, Budhlada, and he has failed to explain as to how the said amount was deposited in his account on the date of execution of the agreement.

Hence, in view of these facts, it cannot be said that any illegality has been committed by learned Courts below in passing the impugned judgments and decrees. Finding recorded by the learned courts below is fully justified by the evidence on record and is supported by cogent reasons. The said finding is not shown to be perverse or illegal nor it is based on misreading or misappreciation of the evidence. Hence, the said finding does not warrant interference in this second appeal. No question of law, much less substantial question of law, arises for determination in this second appeal. Accordingly the appeal is dismissed in limine.

29.7.2011

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(Ram Chand Gupta)
Judge