



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 345 of 2025 (O&M)

Date of Decision: 07.02.2025

Rohtash

... Appellant(s)

Versus

Rajesh Kumar

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Mohinder Singh Kathuria, Advocate
for the appellant(s).

Anil Kshetarpal, J.

I. Factual Background

1. The defendant assails the correctness of the concurrent findings of facts arrived at by both the Courts below while ordering refund of ₹9,20,000/- along with interest @ 6% per annum to the plaintiff as an alternative relief to the relief of specific performance of the agreement to sell.

2. The plaintiff has sought specific performance of the agreement to sell dated 29.03.2013, with respect to a house constructed on the plot measuring 80 square yards. While claiming that the plaintiff was always ready and willing to perform his part of the contract and he visited the office of the Sub Registrar on 01.07.2013, the plaintiff filed a suit. The defendant alleged that he is not an owner and in fact, the property is in the name of his son, namely Kapil. He further claims that the agreement to sell was executed after police pressure. The plaintiff, in order to prove his case, produced the

agreement to sell and examined one of the marginal witnesses of the agreement. The defendant, on the other hand, appeared as his own witness and produced certain documents including the complaint made by the plaintiff to the police. Upon appreciation of the evidence, both the Courts below have decreed the suit for recovery of ₹9,20,000/-.

II. Submissions put forth by the learned counsel representing the parties

3. The learned counsel representing the appellant has made the following submissions:-

- i) The agreement to sell was executed under police pressure which is proved from the complaint made by the plaintiff to the police.
- ii) Only one marginal witness has been examined, whereas second one has not been examined.
- iii) Both the Courts below have failed to discuss the defendant's evidence.

III. Analysis and Discussion

4. This Court has considered the submissions made by the learned counsel representing the appellant.

5. As far as the argument that the agreement to sell was executed under the police pressure is concerned, it would be noticed that the defendant himself stepped into the witness box as DW.1. His evidence was not found worth relying upon. The complaint made by the plaintiff to the police would not be sufficient to conclude that the agreement to sell was executed under the police pressure.

6. With regard to second submission, it would be noticed that the

agreement to sell has been proved by the plaintiff by examining one of the attesting witnesses, namely Rohtash as PW.2. The plaintiff has also stepped into the witness box as PW.1. Apart from that, the plaintiff examined PW.3 Ram Mehar Saini, PW.4 Subhash Chander and PW.5 Shiv Kumar Sharma, Stamp Vendor. Thus, both the Courts below have correctly held that the plaintiff has proved the execution of the agreement to sell. Law does not mandate examination of both the marginal witnesses.

7. With regard to the last submission, it would be noticed that both the Courts below have held that the evidence led by the defendant is not sufficient to prove that the agreement to sell was executed by the plaintiff under the police pressure. In para 12 of the Trial Court's judgment, the defendant's evidence has been discussed. Similarly, the First Appellate Court has also discussed the stand of the defendant in para 17 of its judgment.

8. Moreover, the appellant does not dispute his signatures on the agreement to sell.'

IV. Decision

9. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

10. The miscellaneous application(s) pending, if any, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

February 07, 2025

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No